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PRINCIPLES OF LEGAL IDENTITY IN THE CONTEXT OF THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

The United Nations and the World Bank Group have agreed the following definition and principles of legal identity, in September 2018.

A. Introduction and existing normative framework on legal identity

1. Everyone has the right to be recognized as a person before the law, as enshrined in Article 6 of the Universal Declaration on Human Rights and several international human rights instruments.¹ World Bank data, however, show more than 1 billion people in the world unable to prove who they are,² and who are considered without a *legal identity*.
2. The **2030 Agenda for Sustainable Development**, agreed by all Member States in September 2015, recognized the importance of addressing the global identity gap and established a specific target within the Sustainable Development Goals (SDGs) – Target 16.9 – to specifically establish “*legal identity for all, including birth registration, by 2030.*”³
3. Legal identity is widely acknowledged to be catalytic for achieving at least ten of the SDGs. Data generated from civil registration⁴ and other identification systems support the measurement of over 60 SDG indicators.⁵ As civil registration establishes the existence of a person under law, it has traditionally been the fundamental means of granting legal identity. Legal identity has a critical role to ensure the global community upholds its promise of leaving no one behind, as espoused in the 2030 Agenda.
4. Equally important, good governance, as promoted by the United Nations and the World Bank Group, invariably includes ensuring the legal registration of all vital events (births, deaths, marriages, adoptions, divorces etc.), and the issuance of certificates that serve as proof of legal identity of the individual throughout their life, and also that registration is translated into comprehensive, regular and reliable vital statistics that represent an input into the identity management system.

¹ 1948 Universal Declaration of Human Rights, Articles 6 and 15; 1951 Convention on the Status of Refugees, Articles 25 and 27; 1954 Convention on the Status of Stateless Persons, Articles 25 and 27; 1961 Convention on the Reduction of Statelessness, Articles 1-4; 1965; 1969 International Convention on the Elimination of All Forms of Racial Discrimination, Article 5(d)(iii); 1966 International Covenant on Civil and Political Rights, Article 24; 1979 Convention on the Elimination of All Forms of Discrimination Against Women, Article; 1989 Convention on the Rights of the Child, Articles 7-8; 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, Article 29; 2006 Convention on the Rights of Persons with Disabilities, Article 18.

² World Bank Group, ID4D 2018 Global Data Set: <http://id4d.worldbank.org/global-dataset>

³ In 2015, the UN General Assembly adopted Resolution A/RES/70/1, “Transforming Our World: The 2030 Agenda for Sustainable Development,” which set out the world’s development agenda – in the form of 17 Sustainable Development Goals (SDGs) and 169 targets – until 2030, with a promise to ‘leave no one behind.’

⁴ Defined as the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population (e.g. births, deaths, marriages, adoptions and other name changes).

⁵ World Bank Group (2017). Civil Registration and Vital Statistics for Monitoring the Sustainable Development Goals (SDGs). The sustained management and upgrading of the continuous and universal registration of all vital events, as per international standards and recommendations, is central to the production, dissemination and use of vital statistics that a state requires to plan its demographic, health and socio-economic development, as well as monitoring of the SDG goals.

5. In that context, both ECOSOC and the UN Statistical Commission have requested the Statistics Division of the UN Department of Economic and Social Affairs to develop best practice policy guidance and set normative international standards for civil registration and vital statistics. The UN Regional Economic Commissions have supported moving the global normative framework into regional action plans and context-appropriate guidance to address the particular challenges of civil registration and vital statistics (CRVS) across their respective regions. Building on the regional frameworks, a number of Member States have carried out comprehensive CRVS assessments to identify country-specific bottlenecks and have developed national plans to address them.^{6, 7}

B. Operational and policy challenges

6. The SDG indicator 16.9.1 established to measure progress under Target 16.9 – “by 2030, the *proportion of children under 5 years of age whose births have been registered with a civil authority, by age*”⁸ – suggests that the ‘global identity gap’ can be best closed by achieving universal birth registration. In recent years, however, many Member States have addressed their legal identity challenges through parallel means, as part of a broader strategy of documenting their citizens and those resident on their territory.
7. Various forms of national population/identity registers have been rolled out that digitally record data either originally captured in the foundational civil register, being captured for the first time due to the inaccuracy or under-development of the civil register, or additional to those recorded in the civil register, such as address, social security or identity number, ethnicity or immigration status. National identity cards, unique identity numbers or other credentials have often been issued by Member States establishing national identity registers, which often act as the primary form of proof of legal identity, usually beyond childhood years.
8. Such population registers⁹ and government-issued identity cards or credentials allow the possibility for Member States to establish inter-operability, to varying degrees, among the population register, the civil register, and functional registers such as the voter register, the social security register, the tax register and the driver license register, etc., and can be powerful drivers of social and financial inclusion. They can also combat identity fraud and identify ghost workers and beneficiaries, etc.
9. Investment in national identity management schemes in many Member States, however, has often outstripped investment in the basic functioning of civil registration and vital statistics systems, despite substantive efforts, such as the *African Programme on Accelerated Improvement of CRVS* (APAI-CRVS) and the *Asian and Pacific Civil Registration and Vital Statistics Decade 2015-2024 – Get Every One in the Picture* initiative – resulting in the lack of

⁶ This normative framework includes the 1998 and 2018 *Handbook on Civil Registration and Vital Statistics Systems Management, Operation and Maintenance* and the 2014 *Principles and Recommendations for a Vital Statistics System*.

⁷ As birth registration and certification represent the ‘gold standard’ for documenting and establishing legal identity from birth, UNICEF have also developed additional guidance with the input of the UN Statistics Division – 2013’s “*A Passport to Protection – A Guide to Birth Registration Programming*.”

⁸ <https://unstats.un.org/sdgs/metadata/files/Metadata-16-09-01.pdf>

⁹ *Methodology and Evaluation of Population Registers and Similar Systems*, United Nations, 1969, paragraph 454, 468.

improvement of the completeness of civil registration in terms of birth and deaths, and, consequently, the inability to generate comprehensive, reliable and regular vital statistics.

10. Low birth registration rates and even lower certification rates due to under investment mean that hundreds of millions of children are unable to access basic public services such as education. No formal linking of an identity register and the core civil register means there are limited means to confirm the identity of those registered in national ID systems.
11. In addition, when national identity cards or other identity register credentials are required to access basic public and private services, including in the civil registration of children's birth or other major life events, including marriage, divorce, and death, the un-documented are further marginalized.
12. Gender barriers persist in civil registration. The legislative frameworks of a number of countries do not comply with the principles of universality as elaborated in United Nations principles and standards, for example, by requiring a father present or named in the process of registering a birth, resulting in women being unable to acquire birth certificates/identity documentation for their newborns, which further inhibits access to economic, social, and political rights.¹⁰
13. Furthermore, digitization and centralization of an individual's identity by the state places critical importance on the state's protection of the rights of individuals to basic privacy and confidentiality of personal data, and a significant number of Member States with national identity schemes do not have basic infrastructure, adequate or comprehensive data protection legislation, or data protection enforcement mechanisms, or a combination of all three. The lack of international standards around the capture and use of biometric data for public administration purposes, for example,¹¹ now being used in some public contexts without users' consent, reflects the larger lack of international standards around national identity management systems in general.¹²
14. The genesis of much of that problem is the fact that neither the existing international normative framework on civil registration, SDG Target 16.9, nor the human rights instruments that enshrine legal identity as a basic human right, precisely define legal identity.¹³
15. The United Nations Secretary-General and the President of the World Bank Group signed a Strategic Partnership Framework for the 2030 Agenda for the Sustainable Development on

¹⁰ *The SDGs affirm the principle of non-discrimination and gender equality, as reflected in target 10.3, which aims to "ensure equal opportunity and reduce inequalities of outcome, including through eliminating discriminatory laws, policies and practices," and "end all forms of discrimination against women and girls everywhere."*

¹¹ *Outside of non-normative principles such as the Principles on Identification for Sustainable Development: Towards the Digital Age issued by the World Bank's ID4Development Programme and with the endorsement of UN agencies such as UNICEF, UNHCR and UNDP.*

¹² *Biometric data can be captured and analyzed either with the subjects' knowledge, and on occasion their consent (e.g. Automated Fingerprint Information Systems), or without their knowledge and consent (e.g. facial recognition systems used in transport or crowd settings).*

¹³ *Arguably the closest reference to 'legal identity' in a UN text is in the UN's "Principles and Recommendations for a Vital Statistics System" (2014, UNDESA, para 286), which states "...it is important, to ensure certainty in legal matters, that the individual be provided with special probatory instruments which allow him or her to prove, with ironclad certainty, the facts relating to his or her existence, identity, and personal and family situation."*

18 May 2018. It seeks to strengthen collaboration with governments, development banks, civil society and the private sector at the global and country levels to strengthen national statistical systems and to enhance countries' digital data capacities, including legal identity systems. The collaboration will focus joint efforts on strengthening the responsible collection, analysis and use of data for evidence-based decision making in support of the 2030 Agenda – including through new approaches for addressing critical data gaps and obtaining real-time data, sub-national and disaggregated data and statistics, as well as ensuring privacy, data protection and respect for individuals' rights with respect to the management of their data.

16. This document, therefore, both establishes a definition of legal identity jointly accepted by the United Nations and the World Bank Group, and establishes basic principles for its achievement and operationalization at the country and regional levels. It will also seek to establish a common advocacy document for reference of the United Nations system and the World Bank Group at the global, regional and country levels.

C. Principles on legal identity

- I. Legal identity is defined as the basic characteristics of an individual's identity, i.e. name, sex and date of birth, established by registration in official state civil registers or other appropriate mechanisms, in accordance with national legislation and international standards and recommendations.
- II. Proof of legal identity is granted by certifying the vital event by the civil authority via the issuance of paper, plastic or secure digital credentials or certificates to each individual, their parent(s), guardians or dependents, which carry the weight of legal tender and can be used as proof of legal identity in the individual's interaction with both public and private authorities.¹⁴ Registration and certification of births represents the critical first step in establishing an individual's legal identity, and death registration for retiring a person's legal existence. Through civil registration documents, many critical rights and access to services such as healthcare, social support, early childhood education, and age of maturity protection rights and property, asset and inheritance rights often depend. As reflected in SDG Indicator 16.9.1, birth registration should be the primary means for the granting of legal identity, and civil registration remains the 'gold standard' by which legal identity should be maintained by Member States.
- III. Member States should implement a holistic approach to civil registration of all vital events, production of vital statistics, the establishment and maintenance of population registers and identity management mechanisms, including issuance of unique identifiers, from birth to death, ensuring full interoperability between these functions in a simultaneous manner, according to international standards and recommendations.
- IV. Periodic and systematic assessment of the completeness and quality of civil registration data is critical to ensuring the comprehensiveness of civil registration and vital statistics systems, population registers and national identity systems. Decennial censuses,

¹⁴ Irrespective of the actual mode and media used for issuing such a certificate which vary from paper, plastic, digital and so forth.

household surveys and record linkage studies are important mechanisms for such assessments.

- V. In their efforts to establish the legal identity of all persons on their territory, Member States that deploy technologically-advanced means of proving legal identity should promote the inclusion of otherwise marginalized and poor communities and should not leave them further behind in the spirit of implementing the essential principle of universal civil registration as per international standards.
- VI. Member States have the responsibility to recognize all individuals present on their territory as a person before the law, without prejudice to nationality (or lack thereof), legal status, gender or duration of stay, and, in the case of displaced persons whose official credentials may have been lost, destroyed or confiscated in the course of human conflict or natural disasters, honour the temporary credentials issued by an inter-governmental body such as the UN Refugee Agency, until such time as the legal identity of the individual is re-affirmed by either the country of origin or the country of refuge.¹⁵
- VII. Unique identifiers, such as unique identity numbers, should be issued to individuals from the time of birth registration, which will accompany the individual throughout life and which provide the means to link the successive issuance of identity credentials and guarantee the legal identity of a person as her/his life progresses, including in enrollment in national identity mechanisms and the issuance of travel documents such as passports.
- VIII. Digitally-enabled identity schemes can enhance the ability of an individual to access public and private services, both in person and remotely, but they present significant policy and regulatory challenges related to data security, protection and privacy, as well as universality of access, regardless of gender.
- IX. Protection of personal data and the rights of the individual to basic privacy and consent with how their data is processed, managed and accessed by both public and private bodies is of fundamental importance. All Member States should adopt comprehensive data protection and privacy laws that *secure* the identity data of individuals held by states, *allow individuals* to see how their data is processed and accessed by public and private bodies and for what purpose, and give individuals the power to consent, where feasible, to their data being accessed and mined. Member States should continuously adapt their data protection and privacy laws to reflect technological developments affecting the management of legal identity, particularly in the area of biometrics.

¹⁵ The United Nations High Commissioner for Refugees registers and provides proof of legal identity to many refugees, internally displaced persons and stateless persons, in accordance with the relevant international framework, including the 1951 Convention on the Status of Refugees, Articles 25, 27 and 28, the UN Guiding Principles on Internal Displacement, Principle 20, and the New York Declaration for Refugees and Migrants, New York Declaration for Refugees and Migrants, Comprehensive Refugee Response Framework, paragraphs 5 (d) and (f).

Birth Certificate Content Review

New South Wales Registry of Births Deaths and Marriages

2014

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Executive Summary

The New South Wales Registry of Births Deaths and Marriages (“the Registry”) is reviewing the content of birth certificates. Birth certificates have appeared in their current format (Appendix 1) for many decades, with only minor changes to content during that time. This review is being undertaken for the following reasons:

- Changes in how birth certificates are used
- In consideration of how birth certificates can best reflect the changing composition of families in Australia
- In response to recommendations of the Senate Community Affairs Committee inquiry into the Commonwealth’s role in former adoption policies and practices.¹

A birth certificate is used to establish identity and enable individuals to establish their rights and discharge their obligations in respect of services provided by the government and private sectors. A birth certificate can also establish part of a person’s genetic and family history.

Birth registration details are recorded in accordance with the *Births, Deaths and Marriage Registration Regulation 2011* (“the Regulations”) (Appendix 6), and birth certificates are issued under section 49 of the *Births, Deaths and Marriages Registration Act 1995* (“the BDMR Act”). Any amendments to the Regulations or the BDMR Act were considered to be outside the scope of this review. Rather, the review was concerned with changes to the content of birth certificates that can be implemented within the current legislative framework.

In May 2012, a notice calling for submissions was placed on the Registry’s website and the Registrar wrote to key stakeholders advising them of the review and inviting submissions. Submissions were sought from various state and federal government agencies, not for profit organisations, members of the legal and medical professions, members of the community, law enforcement agencies and other interested parties. A list of those invited to make submissions is at Appendix 2 and a list of those who made submissions is at Appendix 3.

The most common issues raised in submission related to:

- Adoptions
- Indigenous status
- Donor details
- Proof of identity
- Citizenship
- Family research.

Some submissions endorsed the current content of birth certificates. Several parties suggested that certain information appearing on birth certificates is no longer relevant, such as the marriage details and occupations of the person’s parents. Other submissions suggested that additional data be included on birth certificates, such as donor details, time of birth, all parents of a child (both adoptive and birth parents on the same certificate), parent’s full dates of birth, the full names/places of birth/dates of birth of younger and older half/full siblings, linking child/parent/sibling birth and death records, indigenous status, citizenship and/or cultural background of parents.

¹ Senate Standing Committee on Community Affairs, *Commonwealth Contribution to Former Forced Adoption Policies and Practices* (February 2012)

The review examined the varied requests of interested parties, while keeping in mind the importance of the birth certificate as an identity document. Removing some of the information suggested could degrade the value of birth certificates as a proof of identity document, and the addition of some information suggested could raise privacy concerns or lead to some members of the community being identified as different or treated unfairly. Some of the suggestions would also require legislative change, and were therefore outside the scope of the review (but may be considered by Government in the future).

Taking into account these considerations, the review recommends that there be two forms of birth certificate:

- (1) a short birth certificate; and
- (2) a long form birth certificate.

The short birth certificate would be based on the current standard birth certificate but without the following information: the marriage details of the child's parents; the parents' occupation; and any other children of the relationship. These details are not considered essential to proof of identity. An example of a possible short form birth certificate is at Appendix 5. The long form certificate would include a range of other information held on the Register that is not essential for identification purposes but could serve as a useful personal record for the individual. An example of a possible long form birth certificate is at Appendix 6. Both certificates would be issued under the Registrar's seal and would be suitable to use for most official purposes.

The review also recommends that the Registrar of Births, Deaths and Marriages continue to work with other State and Territory Registrars to address recommendation 13 of the Senate Community Affairs Committee Inquiry - *Commonwealth Contribution to Former Forced Adoption Policies and Practices*. Recommendation 13 of this Inquiry was that "all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates, and jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers".

Chapter 1 - Recommendations

Recommendation 1

It is recommended that the Registrar continue to work with other state and territory Registrars to address recommendation 13 of the Senate Standing Committee on Community Affairs - *Commonwealth Contribution to Former Forced Adoption Policies and Practices*.

Recommendation 2

It is recommended that the Registrar introduce an additional type of birth certificate (a long-form certificate), showing additional information contained in the register. The long-form certificate could allow for information not necessary for identification/legal purposes to be available for the personal records of the subject. This certificate would be issued under the Registrar's seal, and would be suitable to use for most purposes.

Recommendation 3

It is recommended that the extract certificate be replaced by the short-form certificate. The short form certificate would not include the marriage details of the person's parents, their occupations and other children of the relationship (but these could be included on the long-form certificate). It is further recommended this certificate contain the dates of birth (rather than the age) of the person's parents.

Chapter 2 - Introduction

The Registrar registers a birth by making an entry about the birth in the Register, including the following details:

- the sex and date and place of birth of the child,
- the weight of the child at birth,
- whether or not the birth was a multiple birth,
- the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence (at the time of delivery) of each parent of the child,
- the date and place of marriage of the parents of the child (if applicable),
- the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child,
- whether or not either of the parents of the child is of Aboriginal or Torres Strait Islander origin,
- if either parent of the child was born outside Australia, the period of residence in Australia of that parent.²

The Registrar has the power to issue a certificate certifying these particulars under section 49 of the BDMR Act. An example of a current birth certificate is at Appendix 1. Not all information held on the Register appears on a birth certificate.

Birth certificates are primarily used to establish identity. Government and non-government agencies accept birth certificates as a primary identity document, so it is important that certificates contain information relevant for this purpose. A birth certificate can also establish at least a part of a person's genetic and family history. Birth certificates also provide information to family researchers and genealogists.

This review examines what information recorded in the Register should appear on the birth certificate. Recommendations that would require amendment to the Regulations were not considered part of this review, but will be noted and may be considered by Government in the future.

² *Births Deaths and Marriages Registration Act 1995*, s17 and *Births, Deaths and Marriage Registration Regulation 2011*, cl. 5(1).

Chapter 3 – Summary and Analysis of Submissions

The Registrar wrote to forty key stakeholders on 21 May 2012 calling for submissions. Nineteen responses were received as a result. A further ten submissions were received from members of the public as a result of a call for submissions placed on the Registry's website. A list of all those lodging submissions is at Appendix 3.

The most common themes raised in the submissions were those relating to:

- ❖ Adoptions
- ❖ Indigenous status
- ❖ Donor details
- ❖ Proof of identity
- ❖ Citizenship
- ❖ Family research

Adoptions

On 29 February 2012, the Commonwealth Senate Standing Committee on Community tabled a report on its Inquiry into the Commonwealth role in former adoption policies and practices. Recommendations 13 and 14 of the report relate to birth certificates. The Department of Family and Community Services' ('FACS') submission to this review highlighted these recommendations.

Recommendation 13 of the report was that:

- all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates; and
- jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers.

NSW law and processes are already consistent with the first part of this recommendation. Section 49(4) of the BDMR Act provides that if requested by applicant, and authorised to do so under the *Adoption Act 2000*, the Registrar must issue an 'adopted person's birth record' containing the particulars of an applicant's birth and the registered record of their adoption. The second part of this recommendation, the harmonisation of register access, is outside the scope of this report. However, the review recommends that the NSW Registrar of BDM continue to work with other State and Territory Registrars to implement this recommendation (**Recommendation 1**).

In recommendation 14, the Senate Committee recommended that:

- All jurisdictions adopt a process for allowing the names of fathers to be added to original birth certificates of children who were subsequently adopted and for whom the fathers' identities were not originally recorded; and

- Provided that prescribed conditions are met, the process be administrative and not require an order of a court.

NSW's processes are already consistent with this recommendation. A father who was not initially included on the birth register at the time of birth of their child may subsequently apply to have their details added under section 18 of the BDMR Act. This process is generally administrative, but if the matter is disputed it may be necessary for a Court to determine the matter.

FACS provides access to its legacy records for parties to adoption and to those who were removed from their families as children and taken into out-of-home care ('care leavers'). Many of these people apply because they want to find out about family members of their birth families, generally with a view to making contact with birth family members.

FACS also suggested including the following information on the birth certificate to assist care leavers:

- The date of parents death

These dates could possibly be provided in the future with the introduction of new technology to link person-centric records.

- All children of a relationship/marriage – not just older siblings

Subsection 5(f) of the regulations states that the following particulars are required for the registration of a birth – “the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child”

Although this is in reference to the time of registration of the child there does not appear to be any barrier to adding children born afterward to the birth registration. This would need to be completed as an amendment to an existing registration. It would rely on parents supplying such details after the birth registration has occurred.

- Half-siblings

The inclusion of half sibling details would be possible as this information is currently collected at the time of registration. However, as it is not essential to proof of identity, the review recommends that these details only be available on the long-form certificate.

- Reasons for any amendments made to birth registration

Additional information regarding reasons for an amendment is sometimes included in the Register as an endorsement.

One respondent felt the wording of the amended birth certificate issued for adoptees has been an issue since legislation introduced in 1990³ caused this wording to be included. The respondent also claimed the birth certificate to be “a legal lie”, as the persons listed as the parents of the child, did not give birth to the child. In saying this, the respondent also states that adoptees do not want to be identified as different from others in the community.

The submissions clearly demonstrated that, while the current form of the amended birth certificate is not without its issues, adoptees generally did not want their birth certificate to indicate their adoptive status. They would prefer an additional “adoption certificate” be

³ *Adoption Information Act 1990* (repealed)

issued that included the names of both the birth and adoptive parents and that this would be for the adopted person's personal information.

In 2006, the NSW Committee on Adoption and Permanent Care Inc (CAPC) distributed a questionnaire seeking the views of persons affected by adoption. The following year, CAPC was requested to comment to the Minister for Community Services about the use of amended and original birth certificates in adoption.

CAPC responded using the recommendations resulting from its questionnaire⁴:

- When considering the birth certificate as a legal document, it is preferable to have basic, minimum information required for the purpose.
- Due to the changing composition of families, the date of the parents' marriage is no longer relevant and should not be recorded.
- Allowing all parents to choose the wording on the amended birth certificate in the same way same sex couples who adopt a child can (i.e.: mother/mother; father/father; parent/parent).
- Supplying an additional certificate of identity that provides information that is personal only to the person to whom the birth certificate applies, such as information pertaining to an adoption.
- Recording details of previous children of the father, not just the mother, as well as this information about full siblings and half siblings from each parent on the certificate of identity.
- CAPC asked if the information collected under Part 2 Clause 5 (1) can be accessed easily and whether the holder of the birth certificate is able to apply for this information. If so, this needs to be properly communicated.
- In addition to the weight of the child, other birth information (e.g. time of birth, type of delivery) should also be recorded as to give full information about the circumstances of the birth.

Recording of additional information in the Register such as time of birth and delivery type is out of scope for this review.

One respondent submitted that although much has improved in the area of adoption since the *Adoption Information Act 1991*, birth certificates issued to adopted people in NSW (and elsewhere in Australia) do not actually tell the "truth" about a child's birth. They felt that a document called a birth certificate should list birth parents and not the adoptive parents.

This respondent claimed that every citizen has a fundamental right to true and accurate information about their birth, to know who their parents are and where they have come from. He proposed that a birth certificate show both adoptive and pre-adoptive parents following an adoption.

Section 49(4) of the BDMR Act allows adopted individuals to obtain an Adopted Persons Birth Record certificate showing both their birth and adoptive parents.⁵ Current legislation

⁴ Letter made in 2007 to the NSW Minister for Community Services, cited by Damon Martin, Chairperson CAPC on 8 June 2012.

⁵ *Births, Deaths and Marriages Registration Act 1995* No 62 – Section 49 (4)

does not allow a birth certificate to record more than two parents and, in the case of adoption, the adopted parents are listed in accordance with the adoption order.

Indigenous Status

The Indigenous status of each parent of a child is currently recorded in the Register. This information is collected for statistical purposes but does not appear on the birth certificate.

The NSW Department of Education and Communities (Education) stated in its submission that schools use birth certificates to verify a student's date of birth, age, name and place of birth. It also uses it as evidence of parentage, which assists as a starting point to determine who the parents of a student are for the purposes of the *Education Act 1990* (which defines parents as including "a guardian or other person having custody or care of a child").

The following suggestions were proposed:

- That the basic information currently included for identification purposes (see above) should continue to be included in NSW birth certificates; and
- Consideration is given to including information on the birth certificate that identifies a person's origin or cultural background; in particular, Aboriginal people could be identified on the birth certificate as an Aboriginal person.

Education raised concerns that a field identifying Aboriginality on a birth certificate may create evidentiary issues in relation to later applications for confirmation of Aboriginality. It expressed the view that there would be a need to have an evidence-based process to establish claims of Aboriginality on the birth certificate.

The New South Wales Ombudsman responded that they held no particular view regarding the content of the NSW birth certificate, but did comment on the information collected by the Registry at the time of birth.

The Ombudsman suggested that the information collected at birth:

- Be extended to better capture information in relation to cultural and language diversity.
- be expanded to ensure information about the parents' main language spoken at home, proficiency in spoken English and religious affiliation is collected. The Australian Bureau of Statistics (ABS) has developed Standards for Statistics on Cultural and Language Diversity⁶, which are designed to collect information considered necessary for consistent and accurate measurement of cultural diversity. The standards include a minimum core set of cultural and language Indicators, which include:
 - o Country of birth of a person
 - o Main language other than English spoken at home
 - o Proficiency in spoken English

⁶ Australian Bureau of Statistics - *Standards for Statistics on Cultural and Language Diversity*, 1999 – <http://www.abs.gov.au/ausstats/abs@.nsf/mf/1289.0> - Accessed 27 November 2013.

- o Indigenous status.

Collection of main language spoken at home, proficiency in English and religion of parents are not within the current Regulations. The Registry is of the view that the collection of data regarding language(s) spoken at home and the religion of a child's parents would have limited utility on a birth certificate. This data is already collected by other means such as the Census.

The ABS suggests the inclusion of Indigenous status on the birth certificate for the child and each parent to enhance statistical data about Aboriginal and Torres Strait Islander peoples, despite the concerns noted above.

Further, the ABS are aware that in NSW, some parents are misreporting on their child's Birth Registration Statement (BRS) as being of Torres Strait Islander origin when seeking to have their Pacific Islander heritage recorded. The ABS suggested the inclusion of a free text field for reporting other optional ethnicities (e.g. Polynesian, Tongan, Maori etc.), or for individual nations or communities within Aboriginal peoples (e.g. Gadigal, Yorta Yorta etc.).

Other submissions were also received requesting the Indigenous status of the child and/or the parent(s) to be included on the birth certificate.

The Indigenous status of parents is recorded in the Register but does not appear on the birth certificate. Indigenous status could be considered for inclusion on a long-form birth certificate, however concerns regarding discrimination based on the identification of a parent's Indigenous status on the birth certificate will need to be considered. Also instituting an evidence-based process to verify claims of Aboriginality and/or Torres Strait Islander heritage would not be feasible at this point.

The Registry is of the view that Indigenous status has limited use on a birth certificate for most purposes. It also states that it would be difficult to establish Indigenous status in a rigorous way.

The Registry may consider a review of the wording of the question regarding Torres Strait Islander origin, to help prevent any confusion by people of Pacific Islander origin (e.g. Samoan, Tongan etc.).

Donor Information

The inclusion of donor and biological parent details on the birth register has created much debate following the District Court of New South Wales decision in the matter *AA v Registrar of Births Deaths and Marriages and BB* on 17 August 2011. This decision led to the NSW Legislative Assembly Law and Safety Committee inquiry and report *Inclusion of Donor Details on the Register of Births* (tabled 17 October 2012).

The terms of reference for that inquiry were:

"That the Committee inquire into and report on whether there should be provision for the inclusion of donor details on the register of births maintained by the Registrar of Births, Deaths and Marriages."

The Committee concluded that donor details should not appear on the birth register or birth certificates. The report made six recommendations, with recommendations 2, 3 and 4 referring to the Registry:

- That the Attorney-General introduce legislation to provide that, if a birth registration statement specifies that a child was donor conceived, the Registrar of Births, Deaths and Marriages is to note that the child was donor conceived in the entry about that child's birth on the register of births.
- That the Registrar of Births, Deaths and Marriages is to issue an addendum on a separate page, indicating that further information is available, when a donor conceived individual aged 18 or over applies for a birth certificate.
- That the Registry of Births, Deaths and Marriages and the Ministry of Health inform stakeholders of the changes to birth registration statements and birth certificates, through measures including agency websites and brochures.⁷

The NSW Government response to the NSW Legislative Assembly Law and Safety Committee's *Inclusion of Donor Details on the Register of Births* report was released on 30 April 2013⁸. The Government only responded to the first recommendation. It stated that it would consider and respond to recommendations 2 to 6 of the report with its response to the second, related inquiry of the Law and Safety Committee, *Managing Donor Conception Information* (report tabled 17 October 2013). The Government must table its response to both these reports by 17 April 2014.

Various submissions to this review made suggestions in relation to recording donor details on the birth certificates of donor-conceived individuals. The review does not make recommendations in relation to this issue given that: (a) change in this area would require an amendment to the Regulations and, potentially, the BDMR Act; (b) the NSW Government has not yet responded to the reports of the Legislative Assembly Law and Safety Committee on donor conception information. However, the Registry is involved in the development of the Government response to these reports, and will implement any change in this area that is approved by Government and/or Parliament.

Proof of Identity

Birth certificates are primarily used by people to establish their identity. Government and non-government agencies accept birth certificates as a primary identity document, so it is important that certificates continue to contain information relevant for this purpose.

The Australian Passport Office (APO) uses birth certificates to help determine the identity of individuals and suggests that the information currently shown on birth certificates be retained. In addition, they submitted that the information regarding siblings is useful to help support identity in certain circumstances. The APO submitted that the addition of the date and place of sibling/s birth would be useful.

⁷ Quoted from Legislative Assembly of New South Wales report - *Inclusion of Donor Details on the Register of Births*, page ix, [http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/\\$FILE/Inclusion%20of%20donor%20details%20on%20the%20register%20of%20births%20report%201-55.pdf](http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/$FILE/Inclusion%20of%20donor%20details%20on%20the%20register%20of%20births%20report%201-55.pdf), accessed 28 March 2013

⁸ NSW Government Response to the Legislative Assembly Committee on Law and Safety: *Inclusion of Donor Details on the Register of Births* (April 2013) [http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/\\$FILE/Government%20Response%20-%20Inclusion%20of%20donor%20details%20on%20register%20of%20births.pdf](http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/$FILE/Government%20Response%20-%20Inclusion%20of%20donor%20details%20on%20register%20of%20births.pdf), accessed 8 October 2013.

The date of birth of siblings is currently recorded in the Register and may be included on a long-form birth certificate. The place of birth of siblings is not currently recorded.

One submission received provided the following suggestions:

- Provide greater clarity on what is the birth registration number as compared to the document number. This may help assist other agencies, particularly when they are verifying a birth certificate on the Document Verification Service (DVS)⁹.
- The date of issue also needs to be clearly identified, again to assist with input in to DVS.
- The inclusion of a field to indicate if the person is deceased.
- The inclusion of a field indicating any name changes to be present on the front of the certificate.
- The inclusion of a field indicating younger siblings to added to the certificate, when re-issued.
- The inclusion of a field indicating the history of certificates being re-printed should be present on the certificate.
- The font size could be increased to improve readability. This will be more important as scanning of documents for storage increases and the quality of the document is important to allow staff to read details from the scan.
- That state and territory Registrars implement an information sharing practice providing the details of all deaths recorded within their jurisdictions. This would allow deceased details of all Australians except those who died overseas to be recorded on their various state and territory birth certificates.

Current NSW birth certificates clearly identify the registration number and date of issue of the certificate. The font size currently used to print text on birth certificates is a standard font size for this sized document although larger fonts can be used by special request.

If the subject has formally changed their name on their birth certificate, a notation indicating when the name change was recorded appears in the endorsements area at the bottom of the birth certificate. A notation is also placed here to indicate if the subject is deceased.

Younger siblings would need to be added to their older sibling's birth registration as they are born and then a new birth certificate produced each time to reflect these additional siblings.

Sharing death data with other jurisdictions is not in scope for this review. However, Queensland BDM compiles national deaths data on behalf of all Australian jurisdictions.

The NSW Police submitted that the following be included on the NSW birth certificate to assist with missing persons investigations and the identification of individuals:

1. Date of birth of the parents;
2. Address of the parents; and

⁹ Cth Attorney Generals Department - DVS

<http://www.ag.gov.au/rightsandprotections/identitysecurity/pages/documentverificationservice.aspx> accessed 23 December 2013.

3. Aliases used by the parents.

The date of birth of parents is recorded in the Register, so could be included on the birth certificate. The address of each parent (at the time of registration) already appears on birth certificate.

The Regulations do not provide for the recording of aliases of the parents. Only the parents name at the time of the child's birth, along with the mother's maiden surname are recorded.

The NSW Office of the Privacy Commissioner acknowledged the importance of the birth certificate as "a high value proof of identity (POI) document" in their submission. But, the need for the collection of certain private information as well as details of third parties was questioned as follows:

- Individuals may not be comfortable with the viewing and possible collection of their personal information on their birth certificate but will likely expect that certain items of information will be sought, such as date and place of birth, especially where that information is required for POI or proof of age purposes.
- Some fields on the current birth certificate are irrelevant, are unreasonably intrusive or have no evidentiary value and should be removed. These are;
 - 1) Sex. The need to identify individuals as either male or female to establish their identity was questioned. The experience of trans and intersex individuals whose gender was incorrectly determined at birth was given as an example and it was pointed out that in some cases sexual identity changes over time and remains indeterminate¹⁰.
 - 2) Mother and father's occupation, their place of birth and their marriage details should be removed on the grounds that not only is it a possibility that a child's parent will not be married but also the child will not have both a mother and father and that they may in fact have two of each. In our view it is preferable that these fields should be removed rather than left blank because blank fields could raise questions on the part of third parties, such as why they do not have a father/mother or why their parents weren't married.
 - 3) Previous children of the relationship field should be removed on the grounds that it is unlikely to be required for POI or proof of age and that it involves the disclosure of personal information about third parties. Likewise, the inclusion of information about twins, triplets etc. should be removed for the same reason.

The sex of an individual and the place of birth of their parents are likely to continue to appear on the birth certificate as several organisations such as the Australian Passport Office, the Department of Education and Communities, and Transport for NSW, indicated the importance of retaining this information. Some information currently included on a standard certificate, such as marriage details of the parents and the particulars of previous issue may be removed. This information could still be available on a long-form certificate, if implemented.

Transport for NSW commented in their submission that a NSW birth certificate is a list one document in their list of acceptable proof of identity documents. The birth certificate allows a

¹⁰ See advice provided by the Human Rights and Equal Opportunity Commission on Gay, Lesbian, Bisexual, Trans and Intersex equality at: http://www.hreoc.gov.au/human_rights/lgbti/index.html

customer to commence their identity in Australia, which is one of the key requirements of the Gold Standard Enrolment Framework.

Transport for NSW submitted that the inclusion of a child's full name, sex and date of birth on the birth certificate are of particular importance. The child's full name, sex and date of birth are currently included on the birth certificate. As such the information currently included on the certificate is sufficient for their purpose.

Citizenship

The APO uses birth certificates for a number of purposes and submitted that the information currently appearing on the certificate should be retained.

In particular, for children born in Australia after 20 August 1986 Australian citizenship is not automatically conferred. One of the parents must be an Australian citizen or permanent resident at the time of the child's birth. Information in relation to parent's occupation, place of birth and age at birth of the child helps in decisions concerning proof of citizenship.

To improve its usefulness when determining citizenship, the APO recommended the following additional information be included on the birth certificate:

- Date/s of birth of the parent/s (rather than age)
- Citizenship of the parent/s
- Date and place of birth of siblings

It would be useful if the parent's citizenship information were captured when registering the birth of a child. Verification of citizenship information by the Department of Immigration and Border Protection would also be beneficial. Treatment of dual citizens would need to be considered, though.

The dates of birth of a child's parents and siblings are currently recorded in the Register. Consideration will be given to including this information on the long-form birth certificate, if it is introduced. The place of birth of siblings and citizenship of parents is not currently recorded in the Register.

A submission was received outlining the problems a respondent had encountered by relying on the information recorded on his birth certificate regarding his father's place of birth. Their father claimed to have been born in Poland when registering the birth. The respondent relied on this information to apply for Polish citizenship by descent after moving to Poland and establishing a business. It was subsequently discovered that the information provided by his father was incorrect.

As a result of his experience, the respondent suggested that the parent's country of origin be substantiated during the registration process to prevent this situation occurring in the future.

Parents complete the Birth Registration Statement (BRS) to register the birth of their child. Information provided on the BRS is certified correct by parents. The weight, sex, date and place of birth of a child, and the mother's name are currently verified against hospital and midwife records at the time of registration. It would be difficult or impossible to verify information from foreign jurisdictions.

Wills and Family History

Part of the role of the NSW Trustee and Guardian is to administer the estates of those who die in NSW, either with or without leaving a will. They may be required to conduct searches to locate beneficiaries and rely on the certificate evidence obtained from BDM to establish entitlement. Without the correct evidence the wrong people may benefit from an estate, or those entitled to benefit may be disadvantaged.

The NSW Trustee and Guardian submitted that the addition of the following information would greatly assist when administering estates:

1. Dates of birth of parents - to assist in identification
2. Place of birth of parents - the addition of the village/town/suburb of a large city, state and country of parents would assist identification.
3. Legal parents - a birth certificate is required as evidence to confirm the legal parents of a child for intestacy purposes.
4. Recording names of both parents - problems occur for the distribution of intestate estates if the father's name has not been recorded on the birth certificate. Unless there is evidence to support a presumption of parentage under the Status of Children Act 1996 an intestate estate will be distributed to the maternal family only if there is no father recorded on a birth certificate. The paternal family is excluded from benefiting from the estate.
5. Misspelling parents' names - check for previous children registered to identify other names or spelling of names.
6. Previous children of relationship - if the birth certificate recorded all the children born to each parent this would enable identification of all siblings entitled to an intestate estate.
7. Full name of siblings.
8. Place and date of birth of other children of the parents - if the birth certificate recorded the place of birth and date of birth this would assist identification of siblings for an intestate estate.

The date and place of birth of each parent is recorded in the Register. Consideration can be given to expanding the collection of the parents' place of birth information and including this, along with the full dates of birth of the parents on the birth certificate.

The Elder Law Group of the NSW Law Society stated that if multiple parents are included, the certificate would need to clearly indicate which parents are the legal parents therefore entitled to benefit from an intestate estate.

Current legislation allows for a maximum of two parents to be recorded on the birth certificate.

It is the responsibility of parents to register the birth of their child. Generally both parents need to sign a birth registration statement (BRS) for a father to appear on the birth certificate. When parent(s) sign the BRS they attest that the information is accurate.

The Regulations do not currently provide for the collection of places of birth of previous children of the parents.

One response commented that the current content provides all necessary “genealogical and social information” required. The respondent suggested no additions or deletions to the information currently appearing on birth certificates.

Another respondent submitted that while they understand that the purpose of a birth certificate is for personal identification, they would be disappointed if valuable genealogical data was lost from the certificates. They stated that Australian birth certificates are a great resource with the information they currently contain.

A further submission suggested that more of the information recorded on the register be printed on the birth certificate. They remarked that if the older certificates had more information on them it would make family history searches easier.

The introduction of a long-form birth certificate would allow for more registered information to appear on the birth certificate.

Other Comments

One respondent submitted that the occupation of the parents should be removed. They also suggested that inclusion of the parent’s marriage particulars should be optional, as many people do not marry.

Marriage particulars are only recorded if the parents are married. The removal of parents’ occupations and marriage particulars can be considered, especially for a short-form certificate, as it is not vital for identification of the child/person.

Another response suggested the extract birth certificate be made available again as it was usually sufficient for proof of age, did not disclose any other information that may be irrelevant and was cheaper. Full certificates should be available for those who are interested in family history or have a need to know more details such as for a security clearance. She also commented that the Queensland practice of not including parents’ marriage details unless requested is “irritating”.

The Registry continues to offer extract birth certificates. The marriage particulars may only appear on long-form birth certificate if introduced, so the issue identified in relation to Queensland’s practice will be taken into consideration.

APPENDIX

1. Current Birth Certificate - Example

NEW SOUTH WALES		REGISTRATION NUMBER
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995		00584/2009
BIRTH CERTIFICATE		
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Maiden Family Name Christian or Given Name(s) Occupation Age Place of Birth	
3 FATHER	Family Name Maiden Family Name Christian or Given Name(s) Occupation Age Place of Birth	
4 MARRIAGE OF PARENTS	Date of Marriage Place of Marriage	
5 PREVIOUS CHILDREN OF RELATIONSHIP		
6 INFORMANT(S)	Name Address	
7 REGISTERING AUTHORITY	Name Date	
8 ENDORSEMENT(S)		



REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2009

I hereby certify that this is a true copy of particulars recorded in a
Register in the State of New South Wales, in the Commonwealth of Australia

Gorey Curry
Registrar

2. Submissions Invited - Organisations

- Commonwealth Attorney-General's Department
- NSW Police
- Department of Immigration and Citizenship
- Society of Australian Genealogists
- Australian Federation of Family History Organisations
- Director General DAGJ
- DOCS
- Anglicare
- Barnardos
- NSW Department of Education and Communities
- NSW Privacy Commissioner
- Commonwealth Privacy Commissioner
- Trustee and Guardian
- Linkup
- Post Adoption Resource Centre
- Centacare
- COAR
- Gay and Lesbian Rights Lobby
- The Fertility Society of Australia
- Legislation Policy and Criminal Law Review Division
- Transport for NSW - Roads and Maritime Services
- ABS
- Child Support Agency
- Department of Human Services - Medicare
- Centrelink
- DFAT
- NSW Bar Association
- The Law Society of NSW
- NSW Ombudsman
- Aboriginal Affairs NSW
- BDM VIC
- BDM QLD
- BDM SA
- BDM WA
- BDM TAS
- BDM NT
- BDM ACT
- BDM NZ
- BDM Norfolk Island
- BDM Fiji

3. Respondents

Submissions were received from the following organisations and individuals:

- **NSW Department of Family and Community Services Community Services**
- **New South Wales Committee on Adoption and Permanent Care Inc**
- **Mr Brian Fitzgerald**
A private citizen.
- **NSW Department of Education and Communities**
- **New South Wales Ombudsman**
- **Australian Bureau of Statistics**
- **Ms Louise Clayton**
A private citizen.
- **The Fertility Society of Australia**
- **Gay and Lesbian Rights Lobby**
- **The Law Society of New South Wales**
- **Mr Paul Clarke**
A private citizen.
- **AA**
The sperm donor referred to in the case in AA v Registrar of Births Deaths & Marriages and BB heard by Judge Stephen Walmsley in the District Court.
- **Department of Foreign Affairs and Trade - Australian Passport Office**
- **Department of Human Services**
The Business Integrity Division of the Department of Human Services
- **NSW Police Force**
- **NSW Office of the Privacy Commissioner**
- **Transport for NSW**
- **Department of Foreign Affairs and Trade - Australian Passport Office**
- **Mr Szymon Gryg**
A private citizen
- **NSW Trustee and Guardian**

- **Society of Australian Genealogists**

- **Ms Deb Humbley**

A private citizen

- **Ms Bernice Rushworth**

A private citizen

- **An anonymous citizen**

- **Ms Lyn Nunn**

A private citizen

4. Possible Long Birth Certificate - Example

NEW SOUTH WALES		REGISTRATION NUMBER
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995		00584/2013
BIRTH CERTIFICATE		
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Family Name at Birth Christian or Given Name(s) Occupation Date of Birth Place of Birth Indigenous Status	
3 FATHER/PARENT 2	Family Name Family Name at Birth Christian or Given Name(s) Occupation Date of Birth Place of Birth Indigenous Status	
4 MARRIAGE OF PARENTS	Date of Marriage Place of Marriage	
5 PREVIOUS CHILDREN OF THIS RELATIONSHIP		
6 PREVIOUS CHILDREN OF MOTHER		
7 PREVIOUS CHILDREN OF FATHER (or PARENT 2)		
8 INFORMANT(S)	Name Address	
9 REGISTERING AUTHORITY	Name Date	
10 ENDORSEMENT(S)		



Before accepting copies, sight unaltered original. The original has a coloured background.

REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2013

I hereby certify that this is a true copy of particulars recorded in a
Register in the State of New South Wales, in the Commonwealth of Australia

SAMPLE
Registrar

5. Example of Possible Short Birth Certificate - Example

NEW SOUTH WALES BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995 EXTRACT BIRTH CERTIFICATE		REGISTRATION NUMBER 00584/2013
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Family Name at Birth Christian or Given Name(s)	
3 FATHER/PARENT 2	Family Name Family Name at Birth Christian or Given Name(s)	
4 REGISTERING AUTHORITY	Name Date	
5 ENDORSEMENT(S)		



REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2013

I hereby certify that this is a true copy of particulars recorded in a
Register in the State of New South Wales, in the Commonwealth of Australia

Googlyerry
 REGISTRAR

6. Births, Deaths and Marriages Registration Regulation 2011

As at 1 July 2013

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Births, Deaths and Marriages Registration Regulation 2011*.

2 Commencement

This Regulation commences on 1 September 2011 and is required to be published on the NSW legislation website.

This Regulation replaces the *Births, Deaths and Marriages Registration Regulation 2006* which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation: "**the Act**" means the *Births, Deaths and Marriages Registration Act 1995*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 – Information required to be given to Registrar or noted in Register

4 Notification of birth

For the purposes of section 12 of the Act, the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) whether the child was born alive or stillborn,
- (c) the weight of the child at birth and, if the child was stillborn, the period of gestation of the child,
- (d) whether or not the birth was a multiple birth,
- (e) the full name (including, if applicable, the original surname), date of birth and usual place of residence (at the time of delivery) of the birth mother of the child,
- (f) the full name and occupation of the person giving the notice.

5 Registration of birth

(1) For the purposes of sections 14 and 17 of the Act, the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) the weight of the child at birth,
- (c) whether or not the birth was a multiple birth,
- (d) the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence (at the time of delivery) of each parent of the child,
- (e) the date and place of marriage of the parents of the child (if applicable),
- (f) the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child,
- (g) whether or not either of the parents of the child is of Aboriginal or Torres Strait Islander origin,
- (h) if either parent of the child was born outside Australia, the period of residence in Australia of that parent.

A birth registration statement given to the Registrar under section 14 of the Act

- must also state the name of the child (see section 21 of the Act).
- (2) For avoidance of doubt, the Registrar is authorised to include in the Register the registrable information about the identity of the child's parents that is required to be provided under this clause.
- (3) If the particulars supplied to the Registrar under section 14 of the Act specify that:
- (a) a parent who is the father of the child wishes to be identified in the Register as the father, or
 - (b) a parent who is the birth mother of the child wishes to be identified in the Register as the mother,
- or both, the particulars entered in the Register under section 17 of the Act must identify the parent as the father or mother, as the case requires. This subclause does not limit the particulars which may be included in the Register.

6 Registration of adoption

For the purposes of section 24 of the Act, the following particulars are required:

- (a) the full name, sex and date and place of birth of the child to whom the record of adoption or discharge relates,
- (b) the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence of the child's adoptive parent or parents,
- (c) the date and place of marriage of the adoptive parents of the child (if applicable),
- (d) the full name and date of birth of any other children (whether adopted children or not and including any deceased children) of either of the adoptive parents of the child.

7 Registration of deceased person's former intention to adopt

For the purposes of section 24A of the Act, the following information is required:

- (a) the full name and last residential address of the deceased person,
- (b) the date and place of death of the deceased person.

8 Registration of change of name

- (1) For the purposes of section 31 of the Act, the following particulars are required:
- (a) the sex and date and place of birth of the person whose change of name is being registered,
 - (b) the full name of the person immediately before the change of name,
 - (c) the full name first given to the person after birth and any other name shown on the person's birth registration,
 - (d) any other former names of the person,
 - (e) the new full name of the person,
 - (f) the full names of the parents of the person (as at the date of the person's birth or registration of the person's birth).
- (2) In this clause, "**former name**" of a person includes:
- (a) a name acquired by the person informally by repute or usage, or
 - (b) any other name used by the person.

9 Application to alter Register to record change of sex

For the purposes of section 32C (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32B of the Act:

- (a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32C (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that paragraph,

(b) documentary proof, to the Registrar's satisfaction, of the identity of the person the subject of the application.

10 Application to register change of sex

For the purposes of section 32DB (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32DA of the Act:

- (a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32DB (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that paragraph, and
- (b) documentary proof, to the Registrar's satisfaction:
 - (i) that the person is an Australian citizen or permanent resident of Australia, and
 - (ii) that the person lives, and has lived for at least one year, in New South Wales.

11 Registration of relationship

The following particulars of the registration of a relationship under the *Relationships Register Act 2010* are required to be registered in the Register:

- (a) the sex, full name, occupation and usual place of residence of each party to the relationship,
- (b) the date and place of birth of each party to the relationship,
- (c) the full names (including, if applicable, the original surname) of the parents of each party to the relationship.

12 Information concerning human remains

For the purposes of section 41 (1) (d) of the Act, the following information is required from a funeral director or other person who arranges for the disposal of human remains:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (i) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (j) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (k) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (l) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

13 Information concerning human remains removed from the State

For the purposes of section 41 (2) (b) of the Act, the following information is required from a funeral director or other person who arranges for the removal of human remains (other than cremated remains) from the State:

- (a) the full name and last residential address of the deceased,
- (b) the date and place of death of the deceased,
- (c) whether or not the death was reported to a coroner,
- (d) the sex, date of birth (or age at death) and place of birth of the deceased,
- (e) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (f) the date of disposal of the remains of the deceased,
- (g) the full name and business address of the funeral director or other person who arranged for removal of the remains,
- (h) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (i) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (j) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (k) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (l) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (m) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (n) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

14 Information concerning human remains not disposed of within 30 days after death

For the purposes of section 41 (3) (c) of the Act, the following information is required from a funeral director or other person who has custody of human remains that have not been disposed of within 30 days after the date of death:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the full name and business address of the funeral director or other person who has custody of the remains of the deceased,
- (e) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (f) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (g) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (h) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (i) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (j) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (k) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

15 Registration of death

For the purposes of section 42 of the Act, the following particulars are required:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (i) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such particulars in relation to each marriage of the deceased if the deceased had married more than once),
- (j) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (k) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (l) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

Part 3 – Miscellaneous

16 Persons who may apply for old birth certificate

(1) For the purposes of section 32F of the Act, the following persons are prescribed as persons who may apply to the Registrar for a birth certificate that shows the sex of a transgender person before the record of the transgender person's sex was altered under Part 5A of the Act:

- (a) the executor or administrator of the transgender person's estate,
- (b) a parent of the transgender person,
- (c) a spouse or de facto partner (or former spouse or de facto partner) of the transgender person,
- (d) an officer or person acting on behalf of any of the following law enforcement agencies:
 - (i) the NSW Police Force, or the police force of another State or a Territory,
 - (ii) the Australian Federal Police,
 - (iii) the New South Wales Crime Commission,
 - (iv) the Australian Crime Commission,
 - (v) the Office of the Director of Public Prosecutions of this State, of another State or a Territory, or of the Commonwealth,
 - (vi) the Independent Commission Against Corruption.

(2) In this clause, **"transgender person"** means a person:

- (a) who has undergone a sex affirmation procedure, and
- (b) the record of whose sex has been altered under Part 5A of the Act.

16A Exemptions from certain provisions of Division 3 of Part 5 of the Act

(1) For the purposes of section 31B of the Act, persons who are inmates, parolees, periodic detainees, forensic patients or correctional patients, or are subject to a

supervision order, solely because of one or more of the following reasons are prescribed as not being a class of restricted person:

- (a) because of the commission or alleged commission of an offence under a law of the Commonwealth,
 - (b) because the person is the subject of a warrant under section 170 (1) (a) of the *Defence Force Discipline Act 1982* of the Commonwealth by which an authorised officer under that Act has committed the person to a correctional centre pursuant to a punishment of imprisonment imposed under that Act,
 - (c) because the person is a detainee within the meaning of the *Migration Act 1958* of the Commonwealth and who is held in a correctional centre as referred to in paragraph (b) (ii) of the definition of "**immigration detention**" in section 5 of that Act,
 - (d) because the person is in the keeping of a correctional officer under section 250 of the *Crimes (Administration of Sentences) Act 1999*.
- (2) A person is exempt from section 31F of the Act if the person is a former serious offender only because of the commission or alleged commission of an offence under a law of the Commonwealth.
- (3) In this clause, terms defined in Part 5 of the Act have the same meanings as they have in that Part.

17 Recognition of change of sex--interstate laws

- (1) For the purposes of section 32I of the Act, the following laws are prescribed:
- (a) *Births, Deaths and Marriages Registration Act 1997* of the Australian Capital Territory,
 - (b) *Births, Deaths and Marriages Registration Act* of the Northern Territory,
 - (c) *Births, Deaths and Marriages Registration Act 2003* of Queensland,
 - (d) *Sexual Reassignment Act 1988* of South Australia,
 - (e) *Births, Deaths and Marriages Registration Act 1999* of Tasmania,
 - (f) *Gender Reassignment Act 2000* of Western Australia,
 - (g) *Births, Deaths and Marriages Registration Act 1996* of Victoria.
- (2) For the purposes of section 32J of the Act the *Gender Reassignment Act 2000* of Western Australia is prescribed.

18 Fees

For the purposes of section 54 of the Act, the fee for a service provided by the Registrar (other than a service that is fee exempt under clause 19) is the amount set out opposite the service concerned in Schedule 1.

19 Temporary fee exemption for marriage and relationship certificates

- (1) The following services are fee exempt for the period commencing on 1 September 2011 and ending on 13 February 2012 (the "**fee exempt period**"):
- (a) the issue of a marriage certificate in respect of a marriage that occurs during the relevant period,
 - (b) the issue of a relationship certificate in respect of a relationship that is registered under the *Relationships Register Act 2010* during the relevant period.
- (2) Accordingly, no fee is payable for the issue of such a marriage certificate or relationship certificate during the fee exempt period.
- (3) This clause does not apply to any other service provided in connection with the issue of a marriage certificate or relationship certificate.
- (4) In this clause: "**marriage certificate**" means a certificate certifying particulars contained in an entry in the Register about a marriage registered under the Act. "**relationship certificate**" means a certificate certifying particulars contained in an entry in the Register about a relationship registered under the *Relationships Register Act 2010*. "**relevant period**" means the period commencing on 14 February

2011 and ending on 13 February 2012.

20 Savings

Any act, matter or thing that, immediately before the repeal of the *Births, Deaths and Marriages Registration Regulation 2006*, had effect under that Regulation continues to have effect under this Regulation.

Step 1a. Understanding Cestui Que Vie Act 1666

Existence of Life

Cestui Que Vie

London 1666, during the black plague and great fires of London, Parliament enacted an act behind closed doors, called Cestui Que Vie Act 1666.

The act being debated was to subrogate the rights of men and women, meaning all men and women were declared dead, lost at sea/beyond the sea. (back then operating in Admiralty law, the law of the sea, so lost at sea).

The state (London) took custody of everybody and their property into a trust. The state became the trustee/husband holding all titles to the people and property, until a living man comes back to reclaim those titles, he can also claim damages.

When CAPITAL letters are used anywhere in a name this always refers to a legal entity/fiction, Company or Corporation no exceptions. e.g. John DOE or Doe: JANE

- 1) CEST TUI QUE TRUST: (pronounced setakay) common term in New Zealand and Australia
- 2) STRAWMAN: common term in United States of America or Canada

These are the legal entity/fiction created and owned by the Government whom created it. It is like owning a share in the Stock Market, you may own a share... but it is still a share of the Stock.

Legally, we are considered to be a fiction, a concept or idea expressed as a name, a symbol. That legal person has no consciousness; it is a juristic person, ENS LEGIS, a name/word written on a piece of paper. This traces back to 1666, London is an IndependentCityState, just like Vatican is an IndependentCityState, just like WashingtonDC is an Independent City State.

The Crown is an unincorporated association. Why unincorporated? It's private. The temple bar is in London, every lawyer called to the "bar" swears allegiance to the temple bar. You can't get called without swearing this allegiance.

Our only way out is to reclaim your dead entity (strawman) that the Crown created, become the executor and then collapse the called Cestui Que Vie trust and forgive yourself of your debts and then remove yourself from the admiralty law that holds you in custody.

When London burned, the subrogation of men's and women's rights occurred. The responsible act passed... CQV act 1666 meant all men and women of UK were declared dead and lost beyond the seas. The state took everybody and everybody's property into trust. The state takes control until a living man or woman comes back and claims their titles by proving they are alive and claims for damages can be made.

This is why you always need representation when involved in legal matters, because you're dead.

The legal fiction is a construct on paper, an estate in trust. When you get a bill or summons from court it is always in capital letters, similar to tomb stones in grave yards. Capital letters signify death. They are writing to the dead legal fiction. A legal fiction was created when someone informed the government that there was a new vessel in town, based upon your birth.

Birth Certificates are issued to us by the Doc. just as ships are given berth Certificates at the Dock. It's about commerce. We come from our mothers waters. Your mother has a birth canal just like a ship. The ship moves by the sea current just as we are able to move by the currency.

All this information relates to how the general public are still legally tied through Maritime Admiralty Law. Through this ancient legal construct we can be easily controlled and duped. Learning about your legal fiction helps you to unlock yourself. Otherwise you are just an empty vessel floating on the sea of commerce. Parents are tricked into registering the birth of their babies.

In about 1837 the Births, Deaths and Marriages act was formed in UK and the post of registrar general was established. His job was to collect all the data from the churches which held the records of birth.

Regis – from Queen or Crown. All people are seen to be in custody of, "The Crown". This allows people to function in commerce and to accept the benefits provided by state. We have to understand who we are as men and women and how we can relate in the system. The City of London is a centre for markets,

where merchants work. Then there is Mercantile Law. It comes from Admiralty Law. Look at the symbols in your City Courts that relate to Admiralty.

So where you have commerce and money, you also have “justice” and “injury”. You need to understand the bankruptcy before you can understand the judiciary. We have accepted the claim to accept the summons, yet ONLY the dead can be summoned. There is an obligation to accept any liability which has been created.

We are operating in Admiralty. A not guilty plea, or ANY plea admits jurisdiction. The strawman, aka legal fiction is always guilty. Barristers and solicitors make a living out of creating controversy. By creating a controversy you become liable for the case.

Honour and dishonour. To remain in honour you have to accept a claim and settle (discharge) it. Then you add conditions, ie. *“I accept on proof of claim and proof of loss”*. This gives the liability back to them. The legal fiction is always guilty. Only in the High Court, can the real man or woman appear. Games are played on courts, hence the name ‘court’. It is a game with actors (acting on acts). It has to be treated as a game and just business. Court room dramas are misinformation.

In the public, we are operating in bankruptcy and you receive benefits. It takes a lot of time, effort and study to understand and use these tools. You have to be prepared to go fully through the process, get the right tool out of your toolbox at the right time.

People need to learn how to act as a creation of God rather than a creation of Man.

[Evidence of Life Evidence of Person Entitled to payment](#) Form 206

Rights Suspension and Corruption Cestui Que Vie Trust

Canon 2036 ([link](#))

A Cestui Que Vie Trust, also known later as a “Fide Commissary [Trust](#)” and later again as a “Foreign Situs [trust](#)” and also known as a [form](#) of “Secret [Trust](#)” is a fictional [concept](#) being a Temporary Testamentary [Trust](#), first created during the

reign of Henry VIII of England through the Cestui Que Vie Act of 1540 and updated by Charles II through the Cestui Que Vie Act of 1666 wherein an [Estate](#) may be effected for the [Benefit](#) of one or more Persons presumed lost or abandoned at “sea” and therefore assumed/presumed “dead” after seven (7) years. Additional presumptions by which such a [Trust](#) may be formed were added in later statutes to include bankrupts, minors, incompetents, mortgages and private companies.

Canon 2037 ([link](#))

The original purpose and function of a Cestui Que (Vie) [Trust](#) was to [form](#) a temporary [Estate](#) for the [benefit](#) of another because some event, [state](#) of [affairs](#) or condition prevented them from claiming their status as living, competent and present before a competent authority. Therefore, any claims, history, statutes or arguments that deviate in [terms](#) of the origin and function of a Cestui Que (Vie) [Trust](#) as pronounced by these canons is false and automatically null and void. A Cestui Que (Vie) [Trust](#) may only exist for seventy (70) years being the traditional accepted “[life](#)” expectancy of the [estate](#).

Canon 2039 ([link](#))

As all Cestui Que (Vie) Trusts are created on one or more presumptions based on its original purpose and function, such a [Trust](#) cannot be created if none of these presumptions can be proven to exist.

Canon 2042 ([link](#))

In 1534, prior to the 1st Cestui Que Vie Act (1540), Henry VIII declared the first Cestui Que Vie type [estate](#) with the Act of Supremacy which created the [Crown Estate](#). In 1604, seventy (70) years later, James I of England modified the [estate](#) as the [Crown](#) Union (Union of Crowns). By the 18th Century, the [Crown](#) was viewed as a [company](#). However by the start of the 19th Century around 1814 onwards upon the [bankruptcy](#) of the [company](#) (1814/15) , it became the fully private [Crown Corporation](#) controlled by European private banker families.

Canon 2043 ([link](#))

Since 1581, there has been a second series of Cestui Que Vie Estates concerning the [property](#) of “persons” and rights which migrated to the United States for administration including:

- (i) In 1651 the Act for the [Settlement](#) of Ireland 1651-52 which introduced the [concept](#) of “settlements”, enemies of the [state](#) and restrictions of movement in states of “emergency”; and
- (ii) In 1861 the Emergency Powers Act 1861; and
- (iii) In 1931 the Emergency [Relief](#) and Construction Act 1931-32; and
- (iv) in 2001 the Patriot Act 2001.

Canon 2044 ([link](#))

Since 1591, there has been a third series of Cestui Que Vie Estates concerning the [property](#) of “soul” and ecclesiastical rights which migrated to the United States for administration including:

- (i) In 1661 the Act of [Settlement](#) 1661-62; and
- (ii) In 1871 the District of Columbia Act 1871; and
- (iii) In 1941 the Lend [Lease](#) Act 1941.

Canon 2045 ([link](#))

By 1815 and the [bankruptcy](#) of the [Crown](#) and [Bank](#) of England by the Rothschilds, for the 1st time, the Cestui Que Vie Trusts of the United Kingdom became [assets](#) placed in private banks effectively becoming “private trusts” or “Fide Commissary Trusts” administered by commissioners (guardians). From 1835 and the Wills Act, these private trusts have been also considered “Secret Trusts” whose existence does not need to be divulged.

Canon 2046 ([link](#))

From 1917/18 with the enactment of the Sedition Act and the Trading with the Enemy Act in the United States and through the United Kingdom, the citizens of the Commonwealth and the United States became effectively “enemies of the [state](#)” and “aliens” which in turn converted the “Fide Commissary” private secret trusts to “Foreign Situs” (Private International) Trusts.

Canon 2047 ([link](#))

In 1931, the [Roman Cult](#), also known as the Vatican created the [Bank](#) for International Settlements for the control of claimed [property](#) of associated private central banks around the world. Upon the deliberate [bankruptcy](#) of most countries, private central banks were installed as administrators and the global Cestui Que Vie/Foreign Situs [Trust](#)system was implemented from 1933 onwards.

Canon 2048 ([link](#))

Since 1933, when a [child](#) is borne in a [State\(Estate\)](#) under [inferior Roman law](#), three (3) Cestui Que (Vie) Trusts are created upon certain presumptions, specifically designed to deny the [child](#) forever any rights of [Real Property](#), any Rights as a Free [Person](#) and any Rights to be known as man and woman rather than a creature or [animal](#), by claiming and possessing their Soul or Spirit.

Canon 2050 ([link](#))

Since 1933, when a [child](#) is borne, the Executors or Administrators of the higher [Estate](#) knowingly and willingly [claim](#) the baby as [chattel](#) to the [Estate](#). The slave baby [contract](#) is then created by honoring the ancient tradition of either having the ink impression of the feet of the baby onto the live birth [record](#), or a drop of its blood as well as tricking the parents to signing the baby away through the deceitful legal meanings on the live birth [record](#). This live birth [record](#) as a promissory note is converted into a slave [bond](#) sold to the private reserve [bank](#) of the [estate](#) and then conveyed into a 2nd and separate Cestui Que (Vie) [Trust](#) per [child](#) owned by the [bank](#). Upon the promissory note reaching maturity and the [bank](#) being unable to “seize” the slave [child](#), a [maritime lien](#) is lawfully issued to “salvage” the lost [property](#) and itself monetized as currency issued in series against the Cestui Que (Vie) [Trust](#).

Canon 2052 ([link](#))

The Three (3) Cestui Que Vie Trusts are the specific denial of rights of [Real Property](#), [Personal Property](#) and Ecclesiastical [Property](#) for most men and women, corresponds exactly to the three forms of law available to the Galla of the Bar Association Courts. The first [form](#) of law is [corporate](#) commercial law is effective because of the 1st Cestui Que Vie [Trust](#). The second [form](#) of law is [maritime](#) and [trust](#) law is effective because of the 2nd Cestui Que Vie [Trust](#). The 3rd [form](#) of law is Talmudic and [Roman Cult](#) law is effective because of the 3rd Cestui Que Vie [Trust](#) of Baptism.

Canon 2053 ([link](#))

The Birth [Certificate](#) issued under [Roman Law](#) represents the modern equivalent to the [Settlement](#) Certificates of the 17th century and signifies the [holder](#) as a pauper and effectively a Roman Slave. The Birth [Certificate](#) has no direct relationship to the private secret trusts controlled by the private banking network, nor can it be used to force the administration of a [state](#) or nation to divulge the existence of these secret trusts.

Canon 2054 ([link](#))

As the Cestui Que Vie Trusts are created as private secret trusts on multiple presumptions including the ongoing [bankruptcy](#) of certain national estates, they remain the claimed private [property](#) of the [Roman Cult](#) banks and therefore cannot be directly claimed or used.

Canon 2055 ([link](#))

While the private secret trusts of the private central banks cannot be directly addressed, they are still formed on certain presumptions of law including claimed [ownership](#) of the name, the [body](#), the [mind](#) and soul of infants, men and women. Each and every man and woman has the absolute right to rebuke and reject such false presumptions as a [holder](#) of their own title.

Canon 2056 ([link](#))

Given the private secret trusts of the private central banks are created on false presumptions, when a man or woman makes clear their Live Borne [Record](#) and [claim](#) over their own name, [body](#), [mind](#) and soul, any such [trust](#) based on such false presumptions ceases to have any [property](#).

Canon 2057 ([link](#))

Any Administrator or Executor that refuses to immediately dissolve a Cestui Que (Vie) [Trust](#), upon a [Person](#) establishing their status and competency, is guilty of fraud and fundamental breach of their [fiduciary](#) duties requiring their immediate removal and punishment.

Beneficial Ownership Requirements for Legal Entity Customers – Overview

Objective. *Assess the bank’s written procedures and overall compliance with regulatory requirements for identifying and verifying beneficial owner(s) of legal entity customers.*

Under the Beneficial Ownership Rule,¹ a bank must establish and maintain written procedures that are reasonably designed to identify and verify beneficial owner(s) of legal entity customers and to include such procedures in its anti-money laundering compliance program.

Legal entities, whether domestic or foreign, can be used to facilitate money laundering and other crimes because their true ownership can be concealed. The collection of beneficial ownership information by banks about legal entity customers can provide law enforcement with key details about suspected criminals who use legal entity structures to conceal their illicit activity and assets. Requiring legal entity customers seeking access to banks to disclose identifying information, such as the name, date of birth, and Social Security number of natural persons who own or control them will make such entities more transparent, and thus less attractive to criminals and those who assist them.

Similar to other customer information that a bank may gather, beneficial ownership information collected under the rule may be relevant to other regulatory requirements. These other regulatory requirements include, but are not limited to, identifying suspicious activity, and determining Office of Foreign Assets Control (OFAC) sanctioned parties. Banks should define in their policies, procedures, and processes how beneficial ownership information will be used to meet other regulatory requirements.

Legal Entity Customers

For the purposes of the Beneficial Ownership Rule,² a legal entity customer is defined as a corporation, limited liability company, or other entity that is created by the filing of a public document with a Secretary of State or other similar office, a general partnership, and any similar entity formed under the laws of a foreign jurisdiction that opens an account. A number of types of business entities are excluded from the definition of legal entity customer under the Beneficial Ownership rule. In addition, and subject to certain limitations, banks are not required to identify and verify the identity of the beneficial owner(s) of a legal entity customer when the customer opens certain types of accounts. For further information on exclusions and exemptions to the Beneficial Ownership Rule, see Appendix 1. These exclusions and exemptions do not alter or supersede other existing requirements related to BSA/AML and OFAC sanctions.

Beneficial Owner(s)

Beneficial ownership is determined under both a control prong and an ownership prong. Under the control prong, the beneficial owner is a single individual with significant

¹ See 31 CFR 1010.230

² See 31 CFR 1010.230(e)(1)

responsibility to control, manage or direct a legal entity customer.³ This includes, an executive officer or senior manager (Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, President), or any other individual who regularly performs similar functions. One beneficial owner must be identified under the control prong for each legal entity customer.

Under the ownership prong, a beneficial owner is each individual, *if any*, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of a legal entity customer.⁴ If a trust owns directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, 25 percent or more of the equity interests of a legal entity customer, the beneficial owner is the trustee.⁵ Identification of a beneficial owner under the ownership prong is *not required* if no individual owns 25 percent or more of a legal entity customer. Therefore, all legal entity customers will have a total of between one and five beneficial owner(s) – one individual under the control prong and zero to four individuals under the ownership prong.

Banks may rely on the information supplied by the legal entity customer regarding the identity of its beneficial owner or owners, provided that it has no knowledge of facts that would reasonably call into question the reliability of such information.⁶ However, bank staff who know, suspect, or have reason to suspect that equity holders are attempting to avoid the reporting threshold may, depending on the circumstances, be required to file a SAR.⁷ More information on filing of SARs may be found in the “Suspicious Activity Reporting Overview” section on page 60 of the *FFIEC BSA/AML Examination Manual*.

Identification of Beneficial Ownership Information

A bank must establish and maintain written procedures detailing the identifying information that must be obtained for each beneficial owner of a legal entity customer opening a new account after May 11, 2018. At a minimum, the bank must obtain the following identifying information for each beneficial owner of a legal entity customer:

- Name.
- Date of birth.
- Address.⁸

³ See 31 CFR 1010.230(d)(2)

⁴ See 31 CFR 1010.230(d)(1)

⁵ See 31 CFR 1010.230(d)(3)

⁶ See 31 CFR 1010.230(b)(2)

⁷ Department of the Treasury, Financial Crimes Enforcement Network (2016), “Customer Due Diligence Requirements for Financial Institutions,” final rules (RIN 1506-AB25), *Federal Register*, vol. 81 (May 11), p. 29410.

⁸ For an individual: a residential or business street address, or if the individual does not have such an address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, the residential or business street address of next of kin or of another contact individual, or a description of the customer’s physical location. For a person other than an individual (such as a corporation, partnership, or trust): a principal place of business, local office, or other physical location. See 31 CFR 1010.220(a)(2)(i)(3)

- Identification number.⁹

A bank may obtain identifying information for beneficial owner(s) of legal entity customers through a completed certification form¹⁰ from the individual opening the account on behalf of the legal entity customer, or by obtaining from the individual the information required by the form by another means, provided the individual certifies, to the best of the individual's knowledge, the accuracy of the information. A bank may rely on the information supplied by the individual opening the account on behalf of the legal entity customer regarding the identity of its beneficial owner(s), provided that it has no knowledge of facts that would reasonably call into question the reliability of such information. If a legal entity customer opens multiple accounts a bank may rely on the pre-existing beneficial ownership records it maintains, provided that the bank confirms (verbally or in writing) that such information is up-to-date and accurate at the time each account is opened.¹¹

Banks must have procedures to maintain and update customer information, including beneficial ownership information for legal entity customers, on the basis of risk. Additionally, banks are not required to conduct retroactive reviews to obtain beneficial ownership information on legal entity customers that were existing customers as of May 11, 2018. However, the bank may need to obtain (and thereafter update) beneficial ownership information for existing legal entity customers based on its ongoing monitoring. For further guidance on maintaining and updating of customer information including beneficial ownership information, please see the “Ongoing Monitoring of Customer Relationship” section of the “Customer Due Diligence Overview” section of the *FFIEC BSA/AML Examination Manual*.¹²

Verification of Beneficial Owner Information

A bank must establish and maintain written risk-based procedures for verifying the identity of each beneficial owner of a legal entity customer within a reasonable period of time after the account is opened. These procedures must contain the elements required for verifying the identity of customers that are individuals under 31 CFR 1020.220(a)(2), provided, that in the case of documentary verification, the bank may use photocopies or other reproductions of the documents listed in paragraph (a)(2)(ii)(A)(1) of 31 CFR 1020.220. Guidance on documentary and non-documentary verification methods may be found in the core overview section “Customer Identification Program,” of the *FFIEC BSA/AML Examination Manual*.

⁹ An identification number for a U.S. person is a taxpayer identification number (TIN) (or evidence of an application for one), and an identification number for a non-U.S. person is one or more of the following: a TIN; a passport number and country of issuance; an alien identification card number; or a number and country of issuance of any other unexpired government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. TIN is defined by section 6109 of the Internal Revenue Code of 1986 (26 USC 6109) and the IRS regulations implementing that section (e.g., Social Security number (SSN) or individual taxpayer identification number (ITIN), or employer identification number (EIN)). See 31 CFR 1010.220(a)(2)(i)(4).

¹⁰ See 31 CFR 1010.230, Appendix A, *Certification Regarding Beneficial Owners of Legal Entity Customers* (2016).

¹¹ FinCEN, FIN-2018-G001, *Frequently Asked Questions Regarding Customer Due Diligence Requirements for Financial Institutions*, Question #10, April 2018.

¹² FFIEC, *Core Examination Overview and Procedures, Customer Due Diligence Overview*, May 2018.

A bank need not establish the accuracy of every element of identifying information obtained, but must verify enough information to form a reasonable belief that it knows the true identity of the beneficial owner(s) of the legal entity customer. The bank's procedures for verifying the identity of the beneficial owners must describe when it uses documents, non-documentary methods, or a combination of methods.

Lack of Identification and Verification of Beneficial Ownership Information

Also consistent with 31 CFR 1020.220, the bank should establish policies, procedures, and processes for circumstances in which the bank cannot form a reasonable belief that it knows the true identity of the beneficial owner(s) of a legal entity customer. These policies, procedures, and processes should describe:

- Circumstances in which the bank should not open an account.
- The terms under which a customer may use an account while the bank attempts to verify the identity of the beneficial owner(s) of a legal entity customer.
- When the bank should close an account, after attempts to verify the identity of the beneficial owner(s) of a legal entity customer have failed.
- When the bank should file a SAR in accordance with applicable law and regulation.

Recordkeeping and Retention Requirements

A bank must establish recordkeeping procedures for beneficial ownership identification and verification information. At a minimum, the bank must maintain any identifying information obtained, including without limitation the certification (if obtained), for a period of five years after the date the account is closed.

The bank must also keep a description of any document relied on (noting the type, any identification number, place of issuance and, if any, date of issuance and expiration), of any non-documentary methods and the results of any measures undertaken, and of the resolution of each substantive discrepancy for five years after the record is made.

Reliance on Another Financial Institution

A bank is permitted to rely on the performance by another financial institution (including an affiliate) of the requirements of the Beneficial Ownership Rule with respect to any legal entity customer of the covered financial institution that is opening, or has opened, an account or has established a similar business relationship with the other financial institution to engage in services, dealings, or other financial transactions, provided that:

- Reliance is reasonable, under the circumstances.
- The relied-upon financial institution is subject to a rule implementing 31 USC 5318(h) and is regulated by a federal functional regulator.¹³

¹³ Federal functional regulator means: Federal Reserve, FDIC, NCUA, OCC, U.S. Securities and Exchange Commission (SEC), or U.S. Commodity Futures Trading Commission (CFTC).

- The other financial institution enters into a contract requiring it to certify annually to the bank that it has implemented its AML program, and that it will perform (or its agent will perform) the specified requirements of the bank's procedures to comply with the requirements of the Beneficial Ownership Rule.

Examination Procedures

Beneficial Ownership

Objective: *Assess the bank's written procedures and overall compliance with regulatory requirements for identifying and verifying beneficial owner(s) of legal entity customers.*

1. Determine whether the bank has adequate written procedures for gathering and verifying information required to be obtained, and retained (including name, address, taxpayer identification number (TIN), and date of birth) for beneficial owner(s) of legal entity customers who open an account after May 11, 2018.
2. Determine whether the bank has adequate risk-based procedures for updating customer information, including beneficial owner information, and maintaining current customer information.

Transaction Testing

3. On the basis of a risk assessment, prior examination reports, and a review of the bank's audit findings, select a sample of new accounts opened for legal entity customers since May 11, 2018 to review for compliance with the Beneficial Ownership Rule. The sample should include a cross-section of account types. From this sample, determine whether the bank has performed the following procedures:
 - Opened the account in accordance with the requirements of the Beneficial Ownership Rule (31 CFR 1010.230).
 - Obtained the identifying information for each beneficial owner of a legal entity customer as required (e.g. name, date of birth, address, and identification number).
 - Within a reasonable time after account opening, verified enough of the beneficial owner's identity information to form a reasonable belief as to the beneficial owner's true identity.
 - Appropriately resolved situations in which beneficial owner's identity could not be reasonably established.
 - Maintained a record of the identity information required by the Beneficial Ownership Rule, the method used to verify identity, and verification results (31 CFR 1010.230(i)).
 - Filed SARs as appropriate.
4. On the basis of the examination procedures completed, including transaction testing, form a conclusion about the adequacy of procedures for complying with the Beneficial Ownership Rule

Appendix 1 – Beneficial Ownership

Exclusions from the definition of Legal Entity Customer

Under 31 CFR 1010.230(e)(2) a legal entity customer does not include:

- A financial institution regulated by a federal functional regulator¹⁴ or a bank regulated by a state bank regulator;
- A person described in 31 CFR 1020.315(b)(2) through (5):
 - A department or agency of the United States, of any state, or of any political subdivision of any State;
 - Any entity established under the laws of the United States, of any state, or of any political subdivision of any state, or under an interstate compact between two or more states, that exercises governmental authority on behalf of the United States or any such state or political subdivision;
 - Any entity (other than a bank) whose common stock or analogous equity interests are listed on the New York Stock Exchange or the American Stock Exchange (currently known as the NYSE American) or have been designated as a NASDAQ National Market Security listed on the NASDAQ stock exchange (with some exceptions);
 - Any subsidiary (other than a bank) of any “listed entity” that is organized under the laws of the United States or of any state and at least 51 percent of whose common stock or analogous equity interest is owned by the listed entity, provided that a person that is a financial institution, other than a bank, is an exempt person only to the extent of its domestic operations;
- An issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 or that is required to file reports under section 15(d) of that Act;
- An investment company, investment adviser, an exchange or clearing agency, or any other entity that is registered with the SEC;
- A registered entity, commodity pool operator, commodity trading advisor, retail foreign exchange dealer, swap dealer, or major swap participant that is registered with the CFTC;
- A public accounting firm registered under section 102 of the Sarbanes-Oxley Act;
- A bank holding company or savings and loan holding company;
- A pooled investment vehicle that is operated or advised by a financial institution that is excluded under paragraph (e)(2);
- An insurance company that is regulated by a state;

¹⁴ Federal functional regulator means: Federal Reserve, FDIC, NCUA, OCC, U.S. Securities and Exchange Commission (SEC), or U.S. Commodity Futures Trading Commission (CFTC).

- A financial market utility designated by the Financial Stability Oversight Council;
- A foreign financial institution established in a jurisdiction where the regulator of such institution maintains beneficial ownership information regarding such institution;
- A non-U.S. governmental department, agency, or political subdivision that engages only in governmental rather than commercial activities;
- Any legal entity only to the extent that it opens a private banking account subject to 31 CFR 1010.620.

Trusts

Trusts are not included in the definition of legal entity customer, other than statutory trusts created by a filing with a Secretary of State or similar office.¹⁵

Exemptions from the Ownership Prong

Certain legal entity customers are subject only to the control prong of the beneficial ownership requirement, including:

- A pooled investment vehicle operated or advised by a financial institution not excluded under paragraph 31 CFR 1010.230(e)(2); and
- Any legal entity that is established as a nonprofit corporation or similar entity and has filed its organizational documents with the appropriate state authority as necessary.

Exemptions and Limitations on Exemptions

Subject to certain limitations, banks are not required to identify and verify the identity of the beneficial owner(s) of a legal entity customer when the customer opens any of the following categories of accounts:

- Accounts established at the point-of-sale to provide credit products, including commercial private label credit cards, solely for the purchase of retail goods and/or services at these retailers, up to a limit of \$50,000;
- Accounts established to finance the purchase of postage and for which payments are remitted directly by the financial institution to the provider of the postage products;
- Accounts established to finance insurance premiums and for which payments are remitted directly by the financial institution to the insurance provider or broker;
- Accounts established to finance the purchase or leasing of equipment and for which payments are remitted directly by the financial institution to the vendor or lessor of this equipment.

These exemptions will not apply:

- If the accounts are transaction accounts through which a legal entity customer can

¹⁵ FinCEN, [FIN-2016-G003](#), *Frequently Asked Questions Regarding Customer Due Diligence Requirements for Financial Institutions*, Question #22, July 19, 2016.

- make payments to, or receive payments from, third parties.
- If there is the possibility of a cash refund on the account activity opened to finance the purchase of postage, to finance insurance premiums, or to finance the purchase or leasing of equipment, then beneficial ownership of the legal entity customer must be identified and verified by the bank as required either at the initial remittance, or at the time such refund occurs.

Birth Certificate Content Review

New South Wales Registry of Births Deaths and Marriages

2014

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Executive Summary

The New South Wales Registry of Births Deaths and Marriages (“the Registry”) is reviewing the content of birth certificates. Birth certificates have appeared in their current format (Appendix 1) for many decades, with only minor changes to content during that time. This review is being undertaken for the following reasons:

- Changes in how birth certificates are used
- In consideration of how birth certificates can best reflect the changing composition of families in Australia
- In response to recommendations of the Senate Community Affairs Committee inquiry into the Commonwealth’s role in former adoption policies and practices.¹

A birth certificate is used to establish identity and enable individuals to establish their rights and discharge their obligations in respect of services provided by the government and private sectors. A birth certificate can also establish part of a person’s genetic and family history.

Birth registration details are recorded in accordance with the *Births, Deaths and Marriage Registration Regulation 2011* (“the Regulations”) (Appendix 6), and birth certificates are issued under section 49 of the *Births, Deaths and Marriages Registration Act 1995* (“the BDMR Act”). Any amendments to the Regulations or the BDMR Act were considered to be outside the scope of this review. Rather, the review was concerned with changes to the content of birth certificates that can be implemented within the current legislative framework.

In May 2012, a notice calling for submissions was placed on the Registry’s website and the Registrar wrote to key stakeholders advising them of the review and inviting submissions. Submissions were sought from various state and federal government agencies, not for profit organisations, members of the legal and medical professions, members of the community, law enforcement agencies and other interested parties. A list of those invited to make submissions is at Appendix 2 and a list of those who made submissions is at Appendix 3.

The most common issues raised in submission related to:

- Adoptions
- Indigenous status
- Donor details
- Proof of identity
- Citizenship
- Family research.

Some submissions endorsed the current content of birth certificates. Several parties suggested that certain information appearing on birth certificates is no longer relevant, such as the marriage details and occupations of the person’s parents. Other submissions suggested that additional data be included on birth certificates, such as donor details, time of birth, all parents of a child (both adoptive and birth parents on the same certificate), parent’s full dates of birth, the full names/places of birth/dates of birth of younger and older half/full siblings, linking child/parent/sibling birth and death records, indigenous status, citizenship and/or cultural background of parents.

¹ Senate Standing Committee on Community Affairs, *Commonwealth Contribution to Former Forced Adoption Policies and Practices* (February 2012)

The review examined the varied requests of interested parties, while keeping in mind the importance of the birth certificate as an identity document. Removing some of the information suggested could degrade the value of birth certificates as a proof of identity document, and the addition of some information suggested could raise privacy concerns or lead to some members of the community being identified as different or treated unfairly. Some of the suggestions would also require legislative change, and were therefore outside the scope of the review (but may be considered by Government in the future).

Taking into account these considerations, the review recommends that there be two forms of birth certificate:

- (1) a short birth certificate; and
- (2) a long form birth certificate.

The short birth certificate would be based on the current standard birth certificate but without the following information: the marriage details of the child's parents; the parents' occupation; and any other children of the relationship. These details are not considered essential to proof of identity. An example of a possible short form birth certificate is at Appendix 5. The long form certificate would include a range of other information held on the Register that is not essential for identification purposes but could serve as a useful personal record for the individual. An example of a possible long form birth certificate is at Appendix 6. Both certificates would be issued under the Registrar's seal and would be suitable to use for most official purposes.

The review also recommends that the Registrar of Births, Deaths and Marriages continue to work with other State and Territory Registrars to address recommendation 13 of the Senate Community Affairs Committee Inquiry - *Commonwealth Contribution to Former Forced Adoption Policies and Practices*. Recommendation 13 of this Inquiry was that "all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates, and jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers".

Chapter 1 - Recommendations

Recommendation 1

It is recommended that the Registrar continue to work with other state and territory Registrars to address recommendation 13 of the Senate Standing Committee on Community Affairs - *Commonwealth Contribution to Former Forced Adoption Policies and Practices*.

Recommendation 2

It is recommended that the Registrar introduce an additional type of birth certificate (a long-form certificate), showing additional information contained in the register. The long-form certificate could allow for information not necessary for identification/legal purposes to be available for the personal records of the subject. This certificate would be issued under the Registrar's seal, and would be suitable to use for most purposes.

Recommendation 3

It is recommended that the extract certificate be replaced by the short-form certificate. The short form certificate would not include the marriage details of the person's parents, their occupations and other children of the relationship (but these could be included on the long-form certificate). It is further recommended this certificate contain the dates of birth (rather than the age) of the person's parents.

Chapter 2 - Introduction

The Registrar registers a birth by making an entry about the birth in the Register, including the following details:

- the sex and date and place of birth of the child,
- the weight of the child at birth,
- whether or not the birth was a multiple birth,
- the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence (at the time of delivery) of each parent of the child,
- the date and place of marriage of the parents of the child (if applicable),
- the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child,
- whether or not either of the parents of the child is of Aboriginal or Torres Strait Islander origin,
- if either parent of the child was born outside Australia, the period of residence in Australia of that parent.²

The Registrar has the power to issue a certificate certifying these particulars under section 49 of the BDMR Act. An example of a current birth certificate is at Appendix 1. Not all information held on the Register appears on a birth certificate.

Birth certificates are primarily used to establish identity. Government and non-government agencies accept birth certificates as a primary identity document, so it is important that certificates contain information relevant for this purpose. A birth certificate can also establish at least a part of a person's genetic and family history. Birth certificates also provide information to family researchers and genealogists.

This review examines what information recorded in the Register should appear on the birth certificate. Recommendations that would require amendment to the Regulations were not considered part of this review, but will be noted and may be considered by Government in the future.

² *Births Deaths and Marriages Registration Act 1995*, s17 and *Births, Deaths and Marriage Registration Regulation 2011*, cl. 5(1).

Chapter 3 – Summary and Analysis of Submissions

The Registrar wrote to forty key stakeholders on 21 May 2012 calling for submissions. Nineteen responses were received as a result. A further ten submissions were received from members of the public as a result of a call for submissions placed on the Registry's website. A list of all those lodging submissions is at Appendix 3.

The most common themes raised in the submissions were those relating to:

- ❖ Adoptions
- ❖ Indigenous status
- ❖ Donor details
- ❖ Proof of identity
- ❖ Citizenship
- ❖ Family research

Adoptions

On 29 February 2012, the Commonwealth Senate Standing Committee on Community tabled a report on its Inquiry into the Commonwealth role in former adoption policies and practices. Recommendations 13 and 14 of the report relate to birth certificates. The Department of Family and Community Services' ('FACS') submission to this review highlighted these recommendations.

Recommendation 13 of the report was that:

- all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates; and
- jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers.

NSW law and processes are already consistent with the first part of this recommendation. Section 49(4) of the BDMR Act provides that if requested by applicant, and authorised to do so under the *Adoption Act 2000*, the Registrar must issue an 'adopted person's birth record' containing the particulars of an applicant's birth and the registered record of their adoption. The second part of this recommendation, the harmonisation of register access, is outside the scope of this report. However, the review recommends that the NSW Registrar of BDM continue to work with other State and Territory Registrars to implement this recommendation (**Recommendation 1**).

In recommendation 14, the Senate Committee recommended that:

- All jurisdictions adopt a process for allowing the names of fathers to be added to original birth certificates of children who were subsequently adopted and for whom the fathers' identities were not originally recorded; and

- Provided that prescribed conditions are met, the process be administrative and not require an order of a court.

NSW's processes are already consistent with this recommendation. A father who was not initially included on the birth register at the time of birth of their child may subsequently apply to have their details added under section 18 of the BDMR Act. This process is generally administrative, but if the matter is disputed it may be necessary for a Court to determine the matter.

FACS provides access to its legacy records for parties to adoption and to those who were removed from their families as children and taken into out-of-home care ('care leavers'). Many of these people apply because they want to find out about family members of their birth families, generally with a view to making contact with birth family members.

FACS also suggested including the following information on the birth certificate to assist care leavers:

- The date of parents death

These dates could possibly be provided in the future with the introduction of new technology to link person-centric records.

- All children of a relationship/marriage – not just older siblings

Subsection 5(f) of the regulations states that the following particulars are required for the registration of a birth – “the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child”

Although this is in reference to the time of registration of the child there does not appear to be any barrier to adding children born afterward to the birth registration. This would need to be completed as an amendment to an existing registration. It would rely on parents supplying such details after the birth registration has occurred.

- Half-siblings

The inclusion of half sibling details would be possible as this information is currently collected at the time of registration. However, as it is not essential to proof of identity, the review recommends that these details only be available on the long-form certificate.

- Reasons for any amendments made to birth registration

Additional information regarding reasons for an amendment is sometimes included in the Register as an endorsement.

One respondent felt the wording of the amended birth certificate issued for adoptees has been an issue since legislation introduced in 1990³ caused this wording to be included. The respondent also claimed the birth certificate to be “a legal lie”, as the persons listed as the parents of the child, did not give birth to the child. In saying this, the respondent also states that adoptees do not want to be identified as different from others in the community.

The submissions clearly demonstrated that, while the current form of the amended birth certificate is not without its issues, adoptees generally did not want their birth certificate to indicate their adoptive status. They would prefer an additional “adoption certificate” be

³ *Adoption Information Act 1990* (repealed)

issued that included the names of both the birth and adoptive parents and that this would be for the adopted person's personal information.

In 2006, the NSW Committee on Adoption and Permanent Care Inc (CAPC) distributed a questionnaire seeking the views of persons affected by adoption. The following year, CAPC was requested to comment to the Minister for Community Services about the use of amended and original birth certificates in adoption.

CAPC responded using the recommendations resulting from its questionnaire⁴:

- When considering the birth certificate as a legal document, it is preferable to have basic, minimum information required for the purpose.
- Due to the changing composition of families, the date of the parents' marriage is no longer relevant and should not be recorded.
- Allowing all parents to choose the wording on the amended birth certificate in the same way same sex couples who adopt a child can (i.e.: mother/mother; father/father; parent/parent).
- Supplying an additional certificate of identity that provides information that is personal only to the person to whom the birth certificate applies, such as information pertaining to an adoption.
- Recording details of previous children of the father, not just the mother, as well as this information about full siblings and half siblings from each parent on the certificate of identity.
- CAPC asked if the information collected under Part 2 Clause 5 (1) can be accessed easily and whether the holder of the birth certificate is able to apply for this information. If so, this needs to be properly communicated.
- In addition to the weight of the child, other birth information (e.g. time of birth, type of delivery) should also be recorded as to give full information about the circumstances of the birth.

Recording of additional information in the Register such as time of birth and delivery type is out of scope for this review.

One respondent submitted that although much has improved in the area of adoption since the *Adoption Information Act 1991*, birth certificates issued to adopted people in NSW (and elsewhere in Australia) do not actually tell the "truth" about a child's birth. They felt that a document called a birth certificate should list birth parents and not the adoptive parents.

This respondent claimed that every citizen has a fundamental right to true and accurate information about their birth, to know who their parents are and where they have come from. He proposed that a birth certificate show both adoptive and pre-adoptive parents following an adoption.

Section 49(4) of the BDMR Act allows adopted individuals to obtain an Adopted Persons Birth Record certificate showing both their birth and adoptive parents.⁵ Current legislation

⁴ Letter made in 2007 to the NSW Minister for Community Services, cited by Damon Martin, Chairperson CAPC on 8 June 2012.

⁵ *Births, Deaths and Marriages Registration Act 1995* No 62 – Section 49 (4)

does not allow a birth certificate to record more than two parents and, in the case of adoption, the adopted parents are listed in accordance with the adoption order.

Indigenous Status

The Indigenous status of each parent of a child is currently recorded in the Register. This information is collected for statistical purposes but does not appear on the birth certificate.

The NSW Department of Education and Communities (Education) stated in its submission that schools use birth certificates to verify a student's date of birth, age, name and place of birth. It also uses it as evidence of parentage, which assists as a starting point to determine who the parents of a student are for the purposes of the *Education Act 1990* (which defines parents as including "a guardian or other person having custody or care of a child").

The following suggestions were proposed:

- That the basic information currently included for identification purposes (see above) should continue to be included in NSW birth certificates; and
- Consideration is given to including information on the birth certificate that identifies a person's origin or cultural background; in particular, Aboriginal people could be identified on the birth certificate as an Aboriginal person.

Education raised concerns that a field identifying Aboriginality on a birth certificate may create evidentiary issues in relation to later applications for confirmation of Aboriginality. It expressed the view that there would be a need to have an evidence-based process to establish claims of Aboriginality on the birth certificate.

The New South Wales Ombudsman responded that they held no particular view regarding the content of the NSW birth certificate, but did comment on the information collected by the Registry at the time of birth.

The Ombudsman suggested that the information collected at birth:

- Be extended to better capture information in relation to cultural and language diversity.
- be expanded to ensure information about the parents' main language spoken at home, proficiency in spoken English and religious affiliation is collected. The Australian Bureau of Statistics (ABS) has developed Standards for Statistics on Cultural and Language Diversity⁶, which are designed to collect information considered necessary for consistent and accurate measurement of cultural diversity. The standards include a minimum core set of cultural and language Indicators, which include:
 - o Country of birth of a person
 - o Main language other than English spoken at home
 - o Proficiency in spoken English

⁶ Australian Bureau of Statistics - *Standards for Statistics on Cultural and Language Diversity*, 1999 – <http://www.abs.gov.au/ausstats/abs@.nsf/mf/1289.0> - Accessed 27 November 2013.

- o Indigenous status.

Collection of main language spoken at home, proficiency in English and religion of parents are not within the current Regulations. The Registry is of the view that the collection of data regarding language(s) spoken at home and the religion of a child's parents would have limited utility on a birth certificate. This data is already collected by other means such as the Census.

The ABS suggests the inclusion of Indigenous status on the birth certificate for the child and each parent to enhance statistical data about Aboriginal and Torres Strait Islander peoples, despite the concerns noted above.

Further, the ABS are aware that in NSW, some parents are misreporting on their child's Birth Registration Statement (BRS) as being of Torres Strait Islander origin when seeking to have their Pacific Islander heritage recorded. The ABS suggested the inclusion of a free text field for reporting other optional ethnicities (e.g. Polynesian, Tongan, Maori etc.), or for individual nations or communities within Aboriginal peoples (e.g. Gadigal, Yorta Yorta etc.).

Other submissions were also received requesting the Indigenous status of the child and/or the parent(s) to be included on the birth certificate.

The Indigenous status of parents is recorded in the Register but does not appear on the birth certificate. Indigenous status could be considered for inclusion on a long-form birth certificate, however concerns regarding discrimination based on the identification of a parent's Indigenous status on the birth certificate will need to be considered. Also instituting an evidence-based process to verify claims of Aboriginality and/or Torres Strait Islander heritage would not be feasible at this point.

The Registry is of the view that Indigenous status has limited use on a birth certificate for most purposes. It also states that it would be difficult to establish Indigenous status in a rigorous way.

The Registry may consider a review of the wording of the question regarding Torres Strait Islander origin, to help prevent any confusion by people of Pacific Islander origin (e.g. Samoan, Tongan etc.).

Donor Information

The inclusion of donor and biological parent details on the birth register has created much debate following the District Court of New South Wales decision in the matter *AA v Registrar of Births Deaths and Marriages and BB* on 17 August 2011. This decision led to the NSW Legislative Assembly Law and Safety Committee inquiry and report *Inclusion of Donor Details on the Register of Births* (tabled 17 October 2012).

The terms of reference for that inquiry were:

"That the Committee inquire into and report on whether there should be provision for the inclusion of donor details on the register of births maintained by the Registrar of Births, Deaths and Marriages."

The Committee concluded that donor details should not appear on the birth register or birth certificates. The report made six recommendations, with recommendations 2, 3 and 4 referring to the Registry:

- That the Attorney-General introduce legislation to provide that, if a birth registration statement specifies that a child was donor conceived, the Registrar of Births, Deaths and Marriages is to note that the child was donor conceived in the entry about that child's birth on the register of births.
- That the Registrar of Births, Deaths and Marriages is to issue an addendum on a separate page, indicating that further information is available, when a donor conceived individual aged 18 or over applies for a birth certificate.
- That the Registry of Births, Deaths and Marriages and the Ministry of Health inform stakeholders of the changes to birth registration statements and birth certificates, through measures including agency websites and brochures.⁷

The NSW Government response to the NSW Legislative Assembly Law and Safety Committee's *Inclusion of Donor Details on the Register of Births* report was released on 30 April 2013⁸. The Government only responded to the first recommendation. It stated that it would consider and respond to recommendations 2 to 6 of the report with its response to the second, related inquiry of the Law and Safety Committee, *Managing Donor Conception Information* (report tabled 17 October 2013). The Government must table its response to both these reports by 17 April 2014.

Various submissions to this review made suggestions in relation to recording donor details on the birth certificates of donor-conceived individuals. The review does not make recommendations in relation to this issue given that: (a) change in this area would require an amendment to the Regulations and, potentially, the BDMR Act; (b) the NSW Government has not yet responded to the reports of the Legislative Assembly Law and Safety Committee on donor conception information. However, the Registry is involved in the development of the Government response to these reports, and will implement any change in this area that is approved by Government and/or Parliament.

Proof of Identity

Birth certificates are primarily used by people to establish their identity. Government and non-government agencies accept birth certificates as a primary identity document, so it is important that certificates continue to contain information relevant for this purpose.

The Australian Passport Office (APO) uses birth certificates to help determine the identity of individuals and suggests that the information currently shown on birth certificates be retained. In addition, they submitted that the information regarding siblings is useful to help support identity in certain circumstances. The APO submitted that the addition of the date and place of sibling/s birth would be useful.

⁷ Quoted from Legislative Assembly of New South Wales report - *Inclusion of Donor Details on the Register of Births*, page ix, [http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/\\$FILE/Inclusion%20of%20donor%20details%20on%20the%20register%20of%20births%20report%201-55.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/$FILE/Inclusion%20of%20donor%20details%20on%20the%20register%20of%20births%20report%201-55.pdf), accessed 28 March 2013

⁸ NSW Government Response to the Legislative Assembly Committee on Law and Safety: *Inclusion of Donor Details on the Register of Births* (April 2013) [http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/\\$FILE/Government%20Response%20-%20Inclusion%20of%20donor%20details%20on%20register%20of%20births.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/$FILE/Government%20Response%20-%20Inclusion%20of%20donor%20details%20on%20register%20of%20births.pdf), accessed 8 October 2013.

The date of birth of siblings is currently recorded in the Register and may be included on a long-form birth certificate. The place of birth of siblings is not currently recorded.

One submission received provided the following suggestions:

- Provide greater clarity on what is the birth registration number as compared to the document number. This may help assist other agencies, particularly when they are verifying a birth certificate on the Document Verification Service (DVS)⁹.
- The date of issue also needs to be clearly identified, again to assist with input in to DVS.
- The inclusion of a field to indicate if the person is deceased.
- The inclusion of a field indicating any name changes to be present on the front of the certificate.
- The inclusion of a field indicating younger siblings to added to the certificate, when re-issued.
- The inclusion of a field indicating the history of certificates being re-printed should be present on the certificate.
- The font size could be increased to improve readability. This will be more important as scanning of documents for storage increases and the quality of the document is important to allow staff to read details from the scan.
- That state and territory Registrars implement an information sharing practice providing the details of all deaths recorded within their jurisdictions. This would allow deceased details of all Australians except those who died overseas to be recorded on their various state and territory birth certificates.

Current NSW birth certificates clearly identify the registration number and date of issue of the certificate. The font size currently used to print text on birth certificates is a standard font size for this sized document although larger fonts can be used by special request.

If the subject has formally changed their name on their birth certificate, a notation indicating when the name change was recorded appears in the endorsements area at the bottom of the birth certificate. A notation is also placed here to indicate if the subject is deceased.

Younger siblings would need to be added to their older sibling's birth registration as they are born and then a new birth certificate produced each time to reflect these additional siblings.

Sharing death data with other jurisdictions is not in scope for this review. However, Queensland BDM compiles national deaths data on behalf of all Australian jurisdictions.

The NSW Police submitted that the following be included on the NSW birth certificate to assist with missing persons investigations and the identification of individuals:

1. Date of birth of the parents;
2. Address of the parents; and

⁹ Cth Attorney Generals Department - DVS

<http://www.ag.gov.au/rightsandprotections/identitysecurity/pages/documentverification.aspx> accessed 23 December 2013.

3. Aliases used by the parents.

The date of birth of parents is recorded in the Register, so could be included on the birth certificate. The address of each parent (at the time of registration) already appears on birth certificate.

The Regulations do not provide for the recording of aliases of the parents. Only the parents name at the time of the child's birth, along with the mother's maiden surname are recorded.

The NSW Office of the Privacy Commissioner acknowledged the importance of the birth certificate as "a high value proof of identity (POI) document" in their submission. But, the need for the collection of certain private information as well as details of third parties was questioned as follows:

- Individuals may not be comfortable with the viewing and possible collection of their personal information on their birth certificate but will likely expect that certain items of information will be sought, such as date and place of birth, especially where that information is required for POI or proof of age purposes.
- Some fields on the current birth certificate are irrelevant, are unreasonably intrusive or have no evidentiary value and should be removed. These are;
 - 1) Sex. The need to identify individuals as either male or female to establish their identity was questioned. The experience of trans and intersex individuals whose gender was incorrectly determined at birth was given as an example and it was pointed out that in some cases sexual identity changes over time and remains indeterminate¹⁰.
 - 2) Mother and father's occupation, their place of birth and their marriage details should be removed on the grounds that not only is it a possibility that a child's parent will not be married but also the child will not have both a mother and father and that they may in fact have two of each. In our view it is preferable that these fields should be removed rather than left blank because blank fields could raise questions on the part of third parties, such as why they do not have a father/mother or why their parents weren't married.
 - 3) Previous children of the relationship field should be removed on the grounds that it is unlikely to be required for POI or proof of age and that it involves the disclosure of personal information about third parties. Likewise, the inclusion of information about twins, triplets etc. should be removed for the same reason.

The sex of an individual and the place of birth of their parents are likely to continue to appear on the birth certificate as several organisations such as the Australian Passport Office, the Department of Education and Communities, and Transport for NSW, indicated the importance of retaining this information. Some information currently included on a standard certificate, such as marriage details of the parents and the particulars of previous issue may be removed. This information could still be available on a long-form certificate, if implemented.

Transport for NSW commented in their submission that a NSW birth certificate is a list one document in their list of acceptable proof of identity documents. The birth certificate allows a

¹⁰ See advice provided by the Human Rights and Equal Opportunity Commission on Gay, Lesbian, Bisexual, Trans and Intersex equality at: http://www.hreoc.gov.au/human_rights/lgbti/index.html

customer to commence their identity in Australia, which is one of the key requirements of the Gold Standard Enrolment Framework.

Transport for NSW submitted that the inclusion of a child's full name, sex and date of birth on the birth certificate are of particular importance. The child's full name, sex and date of birth are currently included on the birth certificate. As such the information currently included on the certificate is sufficient for their purpose.

Citizenship

The APO uses birth certificates for a number of purposes and submitted that the information currently appearing on the certificate should be retained.

In particular, for children born in Australia after 20 August 1986 Australian citizenship is not automatically conferred. One of the parents must be an Australian citizen or permanent resident at the time of the child's birth. Information in relation to parent's occupation, place of birth and age at birth of the child helps in decisions concerning proof of citizenship.

To improve its usefulness when determining citizenship, the APO recommended the following additional information be included on the birth certificate:

- Date/s of birth of the parent/s (rather than age)
- Citizenship of the parent/s
- Date and place of birth of siblings

It would be useful if the parent's citizenship information were captured when registering the birth of a child. Verification of citizenship information by the Department of Immigration and Border Protection would also be beneficial. Treatment of dual citizens would need to be considered, though.

The dates of birth of a child's parents and siblings are currently recorded in the Register. Consideration will be given to including this information on the long-form birth certificate, if it is introduced. The place of birth of siblings and citizenship of parents is not currently recorded in the Register.

A submission was received outlining the problems a respondent had encountered by relying on the information recorded on his birth certificate regarding his father's place of birth. Their father claimed to have been born in Poland when registering the birth. The respondent relied on this information to apply for Polish citizenship by descent after moving to Poland and establishing a business. It was subsequently discovered that the information provided by his father was incorrect.

As a result of his experience, the respondent suggested that the parent's country of origin be substantiated during the registration process to prevent this situation occurring in the future.

Parents complete the Birth Registration Statement (BRS) to register the birth of their child. Information provided on the BRS is certified correct by parents. The weight, sex, date and place of birth of a child, and the mother's name are currently verified against hospital and midwife records at the time of registration. It would be difficult or impossible to verify information from foreign jurisdictions.

Wills and Family History

Part of the role of the NSW Trustee and Guardian is to administer the estates of those who die in NSW, either with or without leaving a will. They may be required to conduct searches to locate beneficiaries and rely on the certificate evidence obtained from BDM to establish entitlement. Without the correct evidence the wrong people may benefit from an estate, or those entitled to benefit may be disadvantaged.

The NSW Trustee and Guardian submitted that the addition of the following information would greatly assist when administering estates:

1. Dates of birth of parents - to assist in identification
2. Place of birth of parents - the addition of the village/town/suburb of a large city, state and country of parents would assist identification.
3. Legal parents - a birth certificate is required as evidence to confirm the legal parents of a child for intestacy purposes.
4. Recording names of both parents - problems occur for the distribution of intestate estates if the father's name has not been recorded on the birth certificate. Unless there is evidence to support a presumption of parentage under the Status of Children Act 1996 an intestate estate will be distributed to the maternal family only if there is no father recorded on a birth certificate. The paternal family is excluded from benefiting from the estate.
5. Misspelling parents' names - check for previous children registered to identify other names or spelling of names.
6. Previous children of relationship - if the birth certificate recorded all the children born to each parent this would enable identification of all siblings entitled to an intestate estate.
7. Full name of siblings.
8. Place and date of birth of other children of the parents - if the birth certificate recorded the place of birth and date of birth this would assist identification of siblings for an intestate estate.

The date and place of birth of each parent is recorded in the Register. Consideration can be given to expanding the collection of the parents' place of birth information and including this, along with the full dates of birth of the parents on the birth certificate.

The Elder Law Group of the NSW Law Society stated that if multiple parents are included, the certificate would need to clearly indicate which parents are the legal parents therefore entitled to benefit from an intestate estate.

Current legislation allows for a maximum of two parents to be recorded on the birth certificate.

It is the responsibility of parents to register the birth of their child. Generally both parents need to sign a birth registration statement (BRS) for a father to appear on the birth certificate. When parent(s) sign the BRS they attest that the information is accurate.

The Regulations do not currently provide for the collection of places of birth of previous children of the parents.

One response commented that the current content provides all necessary “genealogical and social information” required. The respondent suggested no additions or deletions to the information currently appearing on birth certificates.

Another respondent submitted that while they understand that the purpose of a birth certificate is for personal identification, they would be disappointed if valuable genealogical data was lost from the certificates. They stated that Australian birth certificates are a great resource with the information they currently contain.

A further submission suggested that more of the information recorded on the register be printed on the birth certificate. They remarked that if the older certificates had more information on them it would make family history searches easier.

The introduction of a long-form birth certificate would allow for more registered information to appear on the birth certificate.

Other Comments

One respondent submitted that the occupation of the parents should be removed. They also suggested that inclusion of the parent’s marriage particulars should be optional, as many people do not marry.

Marriage particulars are only recorded if the parents are married. The removal of parents’ occupations and marriage particulars can be considered, especially for a short-form certificate, as it is not vital for identification of the child/person.

Another response suggested the extract birth certificate be made available again as it was usually sufficient for proof of age, did not disclose any other information that may be irrelevant and was cheaper. Full certificates should be available for those who are interested in family history or have a need to know more details such as for a security clearance. She also commented that the Queensland practice of not including parents’ marriage details unless requested is “irritating”.

The Registry continues to offer extract birth certificates. The marriage particulars may only appear on long-form birth certificate if introduced, so the issue identified in relation to Queensland’s practice will be taken into consideration.

APPENDIX

1. Current Birth Certificate - Example

NEW SOUTH WALES		REGISTRATION NUMBER
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995		00584/2009
BIRTH CERTIFICATE		
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Maiden Family Name Christian or Given Name(s) Occupation Age Place of Birth	
3 FATHER	Family Name Maiden Family Name Christian or Given Name(s) Occupation Age Place of Birth	
4 MARRIAGE OF PARENTS	Date of Marriage Place of Marriage	
5 PREVIOUS CHILDREN OF RELATIONSHIP		
6 INFORMANT(S)	Name Address	
7 REGISTERING AUTHORITY	Name Date	
8 ENDORSEMENT(S)		



REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2009

I hereby certify that this is a true copy of particulars recorded in a
Register in the State of New South Wales, in the Commonwealth of Australia

Gorey Curry
 REGISTRAR

2. Submissions Invited - Organisations

- Commonwealth Attorney-General's Department
- NSW Police
- Department of Immigration and Citizenship
- Society of Australian Genealogists
- Australian Federation of Family History Organisations
- Director General DAGJ
- DOCS
- Anglicare
- Barnardos
- NSW Department of Education and Communities
- NSW Privacy Commissioner
- Commonwealth Privacy Commissioner
- Trustee and Guardian
- Linkup
- Post Adoption Resource Centre
- Centacare
- COAR
- Gay and Lesbian Rights Lobby
- The Fertility Society of Australia
- Legislation Policy and Criminal Law Review Division
- Transport for NSW - Roads and Maritime Services
- ABS
- Child Support Agency
- Department of Human Services - Medicare
- Centrelink
- DFAT
- NSW Bar Association
- The Law Society of NSW
- NSW Ombudsman
- Aboriginal Affairs NSW
- BDM VIC
- BDM QLD
- BDM SA
- BDM WA
- BDM TAS
- BDM NT
- BDM ACT
- BDM NZ
- BDM Norfolk Island
- BDM Fiji

3. Respondents

Submissions were received from the following organisations and individuals:

- **NSW Department of Family and Community Services Community Services**
- **New South Wales Committee on Adoption and Permanent Care Inc**
- **Mr Brian Fitzgerald**
A private citizen.
- **NSW Department of Education and Communities**
- **New South Wales Ombudsman**
- **Australian Bureau of Statistics**
- **Ms Louise Clayton**
A private citizen.
- **The Fertility Society of Australia**
- **Gay and Lesbian Rights Lobby**
- **The Law Society of New South Wales**
- **Mr Paul Clarke**
A private citizen.
- **AA**
The sperm donor referred to in the case in AA v Registrar of Births Deaths & Marriages and BB heard by Judge Stephen Walmsley in the District Court.
- **Department of Foreign Affairs and Trade - Australian Passport Office**
- **Department of Human Services**
The Business Integrity Division of the Department of Human Services
- **NSW Police Force**
- **NSW Office of the Privacy Commissioner**
- **Transport for NSW**
- **Department of Foreign Affairs and Trade - Australian Passport Office**
- **Mr Szymon Gryg**
A private citizen
- **NSW Trustee and Guardian**

- **Society of Australian Genealogists**

- **Ms Deb Humbley**

A private citizen

- **Ms Bernice Rushworth**

A private citizen

- **An anonymous citizen**

- **Ms Lyn Nunn**

A private citizen

4. Possible Long Birth Certificate - Example

NEW SOUTH WALES		REGISTRATION NUMBER
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995		00584/2013
BIRTH CERTIFICATE		
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Family Name at Birth Christian or Given Name(s) Occupation Date of Birth Place of Birth Indigenous Status	
3 FATHER/PARENT 2	Family Name Family Name at Birth Christian or Given Name(s) Occupation Date of Birth Place of Birth Indigenous Status	
4 MARRIAGE OF PARENTS	Date of Marriage Place of Marriage	
5 PREVIOUS CHILDREN OF THIS RELATIONSHIP		
6 PREVIOUS CHILDREN OF MOTHER		
7 PREVIOUS CHILDREN OF FATHER (or PARENT 2)		
8 INFORMANT(S)	Name Address	
9 REGISTERING AUTHORITY	Name Date	
10 ENDORSEMENT(S)		



Before accepting copies, sight unaltered original. The original has a coloured background.

REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2013

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Register in the State of New South Wales, in the Commonwealth of Australia

SAMPLE
Registrar

5. Example of Possible Short Birth Certificate - Example

NEW SOUTH WALES		REGISTRATION NUMBER
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995		00584/2013
EXTRACT BIRTH CERTIFICATE		
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Family Name at Birth Christian or Given Name(s)	
3 FATHER/PARENT 2	Family Name Family Name at Birth Christian or Given Name(s)	
4 REGISTERING AUTHORITY	Name Date	
5 ENDORSEMENT(S)		



REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2013

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Register in the State of New South Wales, in the Commonwealth of Australia

Googlyerry
Registrar

6. Births, Deaths and Marriages Registration Regulation 2011

As at 1 July 2013

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Births, Deaths and Marriages Registration Regulation 2011*.

2 Commencement

This Regulation commences on 1 September 2011 and is required to be published on the NSW legislation website.

This Regulation replaces the *Births, Deaths and Marriages Registration Regulation 2006* which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation: "**the Act**" means the *Births, Deaths and Marriages Registration Act 1995*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 – Information required to be given to Registrar or noted in Register

4 Notification of birth

For the purposes of section 12 of the Act, the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) whether the child was born alive or stillborn,
- (c) the weight of the child at birth and, if the child was stillborn, the period of gestation of the child,
- (d) whether or not the birth was a multiple birth,
- (e) the full name (including, if applicable, the original surname), date of birth and usual place of residence (at the time of delivery) of the birth mother of the child,
- (f) the full name and occupation of the person giving the notice.

5 Registration of birth

(1) For the purposes of sections 14 and 17 of the Act, the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) the weight of the child at birth,
- (c) whether or not the birth was a multiple birth,
- (d) the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence (at the time of delivery) of each parent of the child,
- (e) the date and place of marriage of the parents of the child (if applicable),
- (f) the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child,
- (g) whether or not either of the parents of the child is of Aboriginal or Torres Strait Islander origin,
- (h) if either parent of the child was born outside Australia, the period of residence in Australia of that parent.

A birth registration statement given to the Registrar under section 14 of the Act

- must also state the name of the child (see section 21 of the Act).
- (2) For avoidance of doubt, the Registrar is authorised to include in the Register the registrable information about the identity of the child's parents that is required to be provided under this clause.
- (3) If the particulars supplied to the Registrar under section 14 of the Act specify that:
- (a) a parent who is the father of the child wishes to be identified in the Register as the father, or
 - (b) a parent who is the birth mother of the child wishes to be identified in the Register as the mother,
- or both, the particulars entered in the Register under section 17 of the Act must identify the parent as the father or mother, as the case requires. This subclause does not limit the particulars which may be included in the Register.

6 Registration of adoption

For the purposes of section 24 of the Act, the following particulars are required:

- (a) the full name, sex and date and place of birth of the child to whom the record of adoption or discharge relates,
- (b) the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence of the child's adoptive parent or parents,
- (c) the date and place of marriage of the adoptive parents of the child (if applicable),
- (d) the full name and date of birth of any other children (whether adopted children or not and including any deceased children) of either of the adoptive parents of the child.

7 Registration of deceased person's former intention to adopt

For the purposes of section 24A of the Act, the following information is required:

- (a) the full name and last residential address of the deceased person,
- (b) the date and place of death of the deceased person.

8 Registration of change of name

- (1) For the purposes of section 31 of the Act, the following particulars are required:
- (a) the sex and date and place of birth of the person whose change of name is being registered,
 - (b) the full name of the person immediately before the change of name,
 - (c) the full name first given to the person after birth and any other name shown on the person's birth registration,
 - (d) any other former names of the person,
 - (e) the new full name of the person,
 - (f) the full names of the parents of the person (as at the date of the person's birth or registration of the person's birth).
- (2) In this clause, "**former name**" of a person includes:
- (a) a name acquired by the person informally by repute or usage, or
 - (b) any other name used by the person.

9 Application to alter Register to record change of sex

For the purposes of section 32C (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32B of the Act:

- (a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32C (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that paragraph,

(b) documentary proof, to the Registrar's satisfaction, of the identity of the person the subject of the application.

10 Application to register change of sex

For the purposes of section 32DB (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32DA of the Act:

- (a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32DB (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that paragraph, and
- (b) documentary proof, to the Registrar's satisfaction:
 - (i) that the person is an Australian citizen or permanent resident of Australia, and
 - (ii) that the person lives, and has lived for at least one year, in New South Wales.

11 Registration of relationship

The following particulars of the registration of a relationship under the *Relationships Register Act 2010* are required to be registered in the Register:

- (a) the sex, full name, occupation and usual place of residence of each party to the relationship,
- (b) the date and place of birth of each party to the relationship,
- (c) the full names (including, if applicable, the original surname) of the parents of each party to the relationship.

12 Information concerning human remains

For the purposes of section 41 (1) (d) of the Act, the following information is required from a funeral director or other person who arranges for the disposal of human remains:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (i) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (j) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (k) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (l) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

13 Information concerning human remains removed from the State

For the purposes of section 41 (2) (b) of the Act, the following information is required from a funeral director or other person who arranges for the removal of human remains (other than cremated remains) from the State:

- (a) the full name and last residential address of the deceased,
- (b) the date and place of death of the deceased,
- (c) whether or not the death was reported to a coroner,
- (d) the sex, date of birth (or age at death) and place of birth of the deceased,
- (e) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (f) the date of disposal of the remains of the deceased,
- (g) the full name and business address of the funeral director or other person who arranged for removal of the remains,
- (h) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (i) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (j) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (k) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (l) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (m) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (n) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

14 Information concerning human remains not disposed of within 30 days after death

For the purposes of section 41 (3) (c) of the Act, the following information is required from a funeral director or other person who has custody of human remains that have not been disposed of within 30 days after the date of death:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the full name and business address of the funeral director or other person who has custody of the remains of the deceased,
- (e) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (f) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (g) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (h) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (i) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (j) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (k) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

15 Registration of death

For the purposes of section 42 of the Act, the following particulars are required:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (i) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such particulars in relation to each marriage of the deceased if the deceased had married more than once),
- (j) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (k) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (l) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

Part 3 – Miscellaneous

16 Persons who may apply for old birth certificate

(1) For the purposes of section 32F of the Act, the following persons are prescribed as persons who may apply to the Registrar for a birth certificate that shows the sex of a transgender person before the record of the transgender person's sex was altered under Part 5A of the Act:

- (a) the executor or administrator of the transgender person's estate,
- (b) a parent of the transgender person,
- (c) a spouse or de facto partner (or former spouse or de facto partner) of the transgender person,
- (d) an officer or person acting on behalf of any of the following law enforcement agencies:
 - (i) the NSW Police Force, or the police force of another State or a Territory,
 - (ii) the Australian Federal Police,
 - (iii) the New South Wales Crime Commission,
 - (iv) the Australian Crime Commission,
 - (v) the Office of the Director of Public Prosecutions of this State, of another State or a Territory, or of the Commonwealth,
 - (vi) the Independent Commission Against Corruption.

(2) In this clause, **"transgender person"** means a person:

- (a) who has undergone a sex affirmation procedure, and
- (b) the record of whose sex has been altered under Part 5A of the Act.

16A Exemptions from certain provisions of Division 3 of Part 5 of the Act

(1) For the purposes of section 31B of the Act, persons who are inmates, parolees, periodic detainees, forensic patients or correctional patients, or are subject to a

supervision order, solely because of one or more of the following reasons are prescribed as not being a class of restricted person:

- (a) because of the commission or alleged commission of an offence under a law of the Commonwealth,
 - (b) because the person is the subject of a warrant under section 170 (1) (a) of the *Defence Force Discipline Act 1982* of the Commonwealth by which an authorised officer under that Act has committed the person to a correctional centre pursuant to a punishment of imprisonment imposed under that Act,
 - (c) because the person is a detainee within the meaning of the *Migration Act 1958* of the Commonwealth and who is held in a correctional centre as referred to in paragraph (b) (ii) of the definition of "**immigration detention**" in section 5 of that Act,
 - (d) because the person is in the keeping of a correctional officer under section 250 of the *Crimes (Administration of Sentences) Act 1999*.
- (2) A person is exempt from section 31F of the Act if the person is a former serious offender only because of the commission or alleged commission of an offence under a law of the Commonwealth.
- (3) In this clause, terms defined in Part 5 of the Act have the same meanings as they have in that Part.

17 Recognition of change of sex--interstate laws

- (1) For the purposes of section 32I of the Act, the following laws are prescribed:
- (a) *Births, Deaths and Marriages Registration Act 1997* of the Australian Capital Territory,
 - (b) *Births, Deaths and Marriages Registration Act* of the Northern Territory,
 - (c) *Births, Deaths and Marriages Registration Act 2003* of Queensland,
 - (d) *Sexual Reassignment Act 1988* of South Australia,
 - (e) *Births, Deaths and Marriages Registration Act 1999* of Tasmania,
 - (f) *Gender Reassignment Act 2000* of Western Australia,
 - (g) *Births, Deaths and Marriages Registration Act 1996* of Victoria.
- (2) For the purposes of section 32J of the Act the *Gender Reassignment Act 2000* of Western Australia is prescribed.

18 Fees

For the purposes of section 54 of the Act, the fee for a service provided by the Registrar (other than a service that is fee exempt under clause 19) is the amount set out opposite the service concerned in Schedule 1.

19 Temporary fee exemption for marriage and relationship certificates

- (1) The following services are fee exempt for the period commencing on 1 September 2011 and ending on 13 February 2012 (the "**fee exempt period**"):
- (a) the issue of a marriage certificate in respect of a marriage that occurs during the relevant period,
 - (b) the issue of a relationship certificate in respect of a relationship that is registered under the *Relationships Register Act 2010* during the relevant period.
- (2) Accordingly, no fee is payable for the issue of such a marriage certificate or relationship certificate during the fee exempt period.
- (3) This clause does not apply to any other service provided in connection with the issue of a marriage certificate or relationship certificate.
- (4) In this clause: "**marriage certificate**" means a certificate certifying particulars contained in an entry in the Register about a marriage registered under the Act. "**relationship certificate**" means a certificate certifying particulars contained in an entry in the Register about a relationship registered under the *Relationships Register Act 2010*. "**relevant period**" means the period commencing on 14 February

2011 and ending on 13 February 2012.

20 Savings

Any act, matter or thing that, immediately before the repeal of the *Births, Deaths and Marriages Registration Regulation 2006*, had effect under that Regulation continues to have effect under this Regulation.

Birth Certificate Content Review

New South Wales Registry of Births Deaths and Marriages

2014

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Executive Summary

The New South Wales Registry of Births Deaths and Marriages (“the Registry”) is reviewing the content of birth certificates. Birth certificates have appeared in their current format (Appendix 1) for many decades, with only minor changes to content during that time. This review is being undertaken for the following reasons:

- Changes in how birth certificates are used
- In consideration of how birth certificates can best reflect the changing composition of families in Australia
- In response to recommendations of the Senate Community Affairs Committee inquiry into the Commonwealth’s role in former adoption policies and practices.¹

A birth certificate is used to establish identity and enable individuals to establish their rights and discharge their obligations in respect of services provided by the government and private sectors. A birth certificate can also establish part of a person’s genetic and family history.

Birth registration details are recorded in accordance with the *Births, Deaths and Marriage Registration Regulation 2011* (“the Regulations”) (Appendix 6), and birth certificates are issued under section 49 of the *Births, Deaths and Marriages Registration Act 1995* (“the BDMR Act”). Any amendments to the Regulations or the BDMR Act were considered to be outside the scope of this review. Rather, the review was concerned with changes to the content of birth certificates that can be implemented within the current legislative framework.

In May 2012, a notice calling for submissions was placed on the Registry’s website and the Registrar wrote to key stakeholders advising them of the review and inviting submissions. Submissions were sought from various state and federal government agencies, not for profit organisations, members of the legal and medical professions, members of the community, law enforcement agencies and other interested parties. A list of those invited to make submissions is at Appendix 2 and a list of those who made submissions is at Appendix 3.

The most common issues raised in submission related to:

- Adoptions
- Indigenous status
- Donor details
- Proof of identity
- Citizenship
- Family research.

Some submissions endorsed the current content of birth certificates. Several parties suggested that certain information appearing on birth certificates is no longer relevant, such as the marriage details and occupations of the person’s parents. Other submissions suggested that additional data be included on birth certificates, such as donor details, time of birth, all parents of a child (both adoptive and birth parents on the same certificate), parent’s full dates of birth, the full names/places of birth/dates of birth of younger and older half/full siblings, linking child/parent/sibling birth and death records, indigenous status, citizenship and/or cultural background of parents.

¹ Senate Standing Committee on Community Affairs, *Commonwealth Contribution to Former Forced Adoption Policies and Practices* (February 2012)

The review examined the varied requests of interested parties, while keeping in mind the importance of the birth certificate as an identity document. Removing some of the information suggested could degrade the value of birth certificates as a proof of identity document, and the addition of some information suggested could raise privacy concerns or lead to some members of the community being identified as different or treated unfairly. Some of the suggestions would also require legislative change, and were therefore outside the scope of the review (but may be considered by Government in the future).

Taking into account these considerations, the review recommends that there be two forms of birth certificate:

- (1) a short birth certificate; and
- (2) a long form birth certificate.

The short birth certificate would be based on the current standard birth certificate but without the following information: the marriage details of the child's parents; the parents' occupation; and any other children of the relationship. These details are not considered essential to proof of identity. An example of a possible short form birth certificate is at Appendix 5. The long form certificate would include a range of other information held on the Register that is not essential for identification purposes but could serve as a useful personal record for the individual. An example of a possible long form birth certificate is at Appendix 6. Both certificates would be issued under the Registrar's seal and would be suitable to use for most official purposes.

The review also recommends that the Registrar of Births, Deaths and Marriages continue to work with other State and Territory Registrars to address recommendation 13 of the Senate Community Affairs Committee Inquiry - *Commonwealth Contribution to Former Forced Adoption Policies and Practices*. Recommendation 13 of this Inquiry was that "all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates, and jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers".

Chapter 1 - Recommendations

Recommendation 1

It is recommended that the Registrar continue to work with other state and territory Registrars to address recommendation 13 of the Senate Standing Committee on Community Affairs - *Commonwealth Contribution to Former Forced Adoption Policies and Practices*.

Recommendation 2

It is recommended that the Registrar introduce an additional type of birth certificate (a long-form certificate), showing additional information contained in the register. The long-form certificate could allow for information not necessary for identification/legal purposes to be available for the personal records of the subject. This certificate would be issued under the Registrar's seal, and would be suitable to use for most purposes.

Recommendation 3

It is recommended that the extract certificate be replaced by the short-form certificate. The short form certificate would not include the marriage details of the person's parents, their occupations and other children of the relationship (but these could be included on the long-form certificate). It is further recommended this certificate contain the dates of birth (rather than the age) of the person's parents.

Chapter 2 - Introduction

The Registrar registers a birth by making an entry about the birth in the Register, including the following details:

- the sex and date and place of birth of the child,
- the weight of the child at birth,
- whether or not the birth was a multiple birth,
- the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence (at the time of delivery) of each parent of the child,
- the date and place of marriage of the parents of the child (if applicable),
- the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child,
- whether or not either of the parents of the child is of Aboriginal or Torres Strait Islander origin,
- if either parent of the child was born outside Australia, the period of residence in Australia of that parent.²

The Registrar has the power to issue a certificate certifying these particulars under section 49 of the BDMR Act. An example of a current birth certificate is at Appendix 1. Not all information held on the Register appears on a birth certificate.

Birth certificates are primarily used to establish identity. Government and non-government agencies accept birth certificates as a primary identity document, so it is important that certificates contain information relevant for this purpose. A birth certificate can also establish at least a part of a person's genetic and family history. Birth certificates also provide information to family researchers and genealogists.

This review examines what information recorded in the Register should appear on the birth certificate. Recommendations that would require amendment to the Regulations were not considered part of this review, but will be noted and may be considered by Government in the future.

² *Births Deaths and Marriages Registration Act 1995*, s17 and *Births, Deaths and Marriage Registration Regulation 2011*, cl. 5(1).

Chapter 3 – Summary and Analysis of Submissions

The Registrar wrote to forty key stakeholders on 21 May 2012 calling for submissions. Nineteen responses were received as a result. A further ten submissions were received from members of the public as a result of a call for submissions placed on the Registry's website. A list of all those lodging submissions is at Appendix 3.

The most common themes raised in the submissions were those relating to:

- ❖ Adoptions
- ❖ Indigenous status
- ❖ Donor details
- ❖ Proof of identity
- ❖ Citizenship
- ❖ Family research

Adoptions

On 29 February 2012, the Commonwealth Senate Standing Committee on Community tabled a report on its Inquiry into the Commonwealth role in former adoption policies and practices. Recommendations 13 and 14 of the report relate to birth certificates. The Department of Family and Community Services' ('FACS') submission to this review highlighted these recommendations.

Recommendation 13 of the report was that:

- all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates; and
- jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers.

NSW law and processes are already consistent with the first part of this recommendation. Section 49(4) of the BDMR Act provides that if requested by applicant, and authorised to do so under the *Adoption Act 2000*, the Registrar must issue an 'adopted person's birth record' containing the particulars of an applicant's birth and the registered record of their adoption. The second part of this recommendation, the harmonisation of register access, is outside the scope of this report. However, the review recommends that the NSW Registrar of BDM continue to work with other State and Territory Registrars to implement this recommendation (**Recommendation 1**).

In recommendation 14, the Senate Committee recommended that:

- All jurisdictions adopt a process for allowing the names of fathers to be added to original birth certificates of children who were subsequently adopted and for whom the fathers' identities were not originally recorded; and

- Provided that prescribed conditions are met, the process be administrative and not require an order of a court.

NSW's processes are already consistent with this recommendation. A father who was not initially included on the birth register at the time of birth of their child may subsequently apply to have their details added under section 18 of the BDMR Act. This process is generally administrative, but if the matter is disputed it may be necessary for a Court to determine the matter.

FACS provides access to its legacy records for parties to adoption and to those who were removed from their families as children and taken into out-of-home care ('care leavers'). Many of these people apply because they want to find out about family members of their birth families, generally with a view to making contact with birth family members.

FACS also suggested including the following information on the birth certificate to assist care leavers:

- The date of parents death

These dates could possibly be provided in the future with the introduction of new technology to link person-centric records.

- All children of a relationship/marriage – not just older siblings

Subsection 5(f) of the regulations states that the following particulars are required for the registration of a birth – “the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child”

Although this is in reference to the time of registration of the child there does not appear to be any barrier to adding children born afterward to the birth registration. This would need to be completed as an amendment to an existing registration. It would rely on parents supplying such details after the birth registration has occurred.

- Half-siblings

The inclusion of half sibling details would be possible as this information is currently collected at the time of registration. However, as it is not essential to proof of identity, the review recommends that these details only be available on the long-form certificate.

- Reasons for any amendments made to birth registration

Additional information regarding reasons for an amendment is sometimes included in the Register as an endorsement.

One respondent felt the wording of the amended birth certificate issued for adoptees has been an issue since legislation introduced in 1990³ caused this wording to be included. The respondent also claimed the birth certificate to be “a legal lie”, as the persons listed as the parents of the child, did not give birth to the child. In saying this, the respondent also states that adoptees do not want to be identified as different from others in the community.

The submissions clearly demonstrated that, while the current form of the amended birth certificate is not without its issues, adoptees generally did not want their birth certificate to indicate their adoptive status. They would prefer an additional “adoption certificate” be

³ *Adoption Information Act 1990* (repealed)

issued that included the names of both the birth and adoptive parents and that this would be for the adopted person's personal information.

In 2006, the NSW Committee on Adoption and Permanent Care Inc (CAPC) distributed a questionnaire seeking the views of persons affected by adoption. The following year, CAPC was requested to comment to the Minister for Community Services about the use of amended and original birth certificates in adoption.

CAPC responded using the recommendations resulting from its questionnaire⁴:

- When considering the birth certificate as a legal document, it is preferable to have basic, minimum information required for the purpose.
- Due to the changing composition of families, the date of the parents' marriage is no longer relevant and should not be recorded.
- Allowing all parents to choose the wording on the amended birth certificate in the same way same sex couples who adopt a child can (i.e.: mother/mother; father/father; parent/parent).
- Supplying an additional certificate of identity that provides information that is personal only to the person to whom the birth certificate applies, such as information pertaining to an adoption.
- Recording details of previous children of the father, not just the mother, as well as this information about full siblings and half siblings from each parent on the certificate of identity.
- CAPC asked if the information collected under Part 2 Clause 5 (1) can be accessed easily and whether the holder of the birth certificate is able to apply for this information. If so, this needs to be properly communicated.
- In addition to the weight of the child, other birth information (e.g. time of birth, type of delivery) should also be recorded as to give full information about the circumstances of the birth.

Recording of additional information in the Register such as time of birth and delivery type is out of scope for this review.

One respondent submitted that although much has improved in the area of adoption since the *Adoption Information Act 1991*, birth certificates issued to adopted people in NSW (and elsewhere in Australia) do not actually tell the "truth" about a child's birth. They felt that a document called a birth certificate should list birth parents and not the adoptive parents.

This respondent claimed that every citizen has a fundamental right to true and accurate information about their birth, to know who their parents are and where they have come from. He proposed that a birth certificate show both adoptive and pre-adoptive parents following an adoption.

Section 49(4) of the BDMR Act allows adopted individuals to obtain an Adopted Persons Birth Record certificate showing both their birth and adoptive parents.⁵ Current legislation

⁴ Letter made in 2007 to the NSW Minister for Community Services, cited by Damon Martin, Chairperson CAPC on 8 June 2012.

⁵ *Births, Deaths and Marriages Registration Act 1995* No 62 – Section 49 (4)

does not allow a birth certificate to record more than two parents and, in the case of adoption, the adopted parents are listed in accordance with the adoption order.

Indigenous Status

The Indigenous status of each parent of a child is currently recorded in the Register. This information is collected for statistical purposes but does not appear on the birth certificate.

The NSW Department of Education and Communities (Education) stated in its submission that schools use birth certificates to verify a student's date of birth, age, name and place of birth. It also uses it as evidence of parentage, which assists as a starting point to determine who the parents of a student are for the purposes of the *Education Act 1990* (which defines parents as including "a guardian or other person having custody or care of a child").

The following suggestions were proposed:

- That the basic information currently included for identification purposes (see above) should continue to be included in NSW birth certificates; and
- Consideration is given to including information on the birth certificate that identifies a person's origin or cultural background; in particular, Aboriginal people could be identified on the birth certificate as an Aboriginal person.

Education raised concerns that a field identifying Aboriginality on a birth certificate may create evidentiary issues in relation to later applications for confirmation of Aboriginality. It expressed the view that there would be a need to have an evidence-based process to establish claims of Aboriginality on the birth certificate.

The New South Wales Ombudsman responded that they held no particular view regarding the content of the NSW birth certificate, but did comment on the information collected by the Registry at the time of birth.

The Ombudsman suggested that the information collected at birth:

- Be extended to better capture information in relation to cultural and language diversity.
- be expanded to ensure information about the parents' main language spoken at home, proficiency in spoken English and religious affiliation is collected. The Australian Bureau of Statistics (ABS) has developed Standards for Statistics on Cultural and Language Diversity⁶, which are designed to collect information considered necessary for consistent and accurate measurement of cultural diversity. The standards include a minimum core set of cultural and language Indicators, which include:
 - o Country of birth of a person
 - o Main language other than English spoken at home
 - o Proficiency in spoken English

⁶ Australian Bureau of Statistics - *Standards for Statistics on Cultural and Language Diversity*, 1999 – <http://www.abs.gov.au/ausstats/abs@.nsf/mf/1289.0> - Accessed 27 November 2013.

- o Indigenous status.

Collection of main language spoken at home, proficiency in English and religion of parents are not within the current Regulations. The Registry is of the view that the collection of data regarding language(s) spoken at home and the religion of a child's parents would have limited utility on a birth certificate. This data is already collected by other means such as the Census.

The ABS suggests the inclusion of Indigenous status on the birth certificate for the child and each parent to enhance statistical data about Aboriginal and Torres Strait Islander peoples, despite the concerns noted above.

Further, the ABS are aware that in NSW, some parents are misreporting on their child's Birth Registration Statement (BRS) as being of Torres Strait Islander origin when seeking to have their Pacific Islander heritage recorded. The ABS suggested the inclusion of a free text field for reporting other optional ethnicities (e.g. Polynesian, Tongan, Maori etc.), or for individual nations or communities within Aboriginal peoples (e.g. Gadigal, Yorta Yorta etc.).

Other submissions were also received requesting the Indigenous status of the child and/or the parent(s) to be included on the birth certificate.

The Indigenous status of parents is recorded in the Register but does not appear on the birth certificate. Indigenous status could be considered for inclusion on a long-form birth certificate, however concerns regarding discrimination based on the identification of a parent's Indigenous status on the birth certificate will need to be considered. Also instituting an evidence-based process to verify claims of Aboriginality and/or Torres Strait Islander heritage would not be feasible at this point.

The Registry is of the view that Indigenous status has limited use on a birth certificate for most purposes. It also states that it would be difficult to establish Indigenous status in a rigorous way.

The Registry may consider a review of the wording of the question regarding Torres Strait Islander origin, to help prevent any confusion by people of Pacific Islander origin (e.g. Samoan, Tongan etc.).

Donor Information

The inclusion of donor and biological parent details on the birth register has created much debate following the District Court of New South Wales decision in the matter *AA v Registrar of Births Deaths and Marriages and BB* on 17 August 2011. This decision led to the NSW Legislative Assembly Law and Safety Committee inquiry and report *Inclusion of Donor Details on the Register of Births* (tabled 17 October 2012).

The terms of reference for that inquiry were:

"That the Committee inquire into and report on whether there should be provision for the inclusion of donor details on the register of births maintained by the Registrar of Births, Deaths and Marriages."

The Committee concluded that donor details should not appear on the birth register or birth certificates. The report made six recommendations, with recommendations 2, 3 and 4 referring to the Registry:

- That the Attorney-General introduce legislation to provide that, if a birth registration statement specifies that a child was donor conceived, the Registrar of Births, Deaths and Marriages is to note that the child was donor conceived in the entry about that child's birth on the register of births.
- That the Registrar of Births, Deaths and Marriages is to issue an addendum on a separate page, indicating that further information is available, when a donor conceived individual aged 18 or over applies for a birth certificate.
- That the Registry of Births, Deaths and Marriages and the Ministry of Health inform stakeholders of the changes to birth registration statements and birth certificates, through measures including agency websites and brochures.⁷

The NSW Government response to the NSW Legislative Assembly Law and Safety Committee's *Inclusion of Donor Details on the Register of Births* report was released on 30 April 2013⁸. The Government only responded to the first recommendation. It stated that it would consider and respond to recommendations 2 to 6 of the report with its response to the second, related inquiry of the Law and Safety Committee, *Managing Donor Conception Information* (report tabled 17 October 2013). The Government must table its response to both these reports by 17 April 2014.

Various submissions to this review made suggestions in relation to recording donor details on the birth certificates of donor-conceived individuals. The review does not make recommendations in relation to this issue given that: (a) change in this area would require an amendment to the Regulations and, potentially, the BDMR Act; (b) the NSW Government has not yet responded to the reports of the Legislative Assembly Law and Safety Committee on donor conception information. However, the Registry is involved in the development of the Government response to these reports, and will implement any change in this area that is approved by Government and/or Parliament.

Proof of Identity

Birth certificates are primarily used by people to establish their identity. Government and non-government agencies accept birth certificates as a primary identity document, so it is important that certificates continue to contain information relevant for this purpose.

The Australian Passport Office (APO) uses birth certificates to help determine the identity of individuals and suggests that the information currently shown on birth certificates be retained. In addition, they submitted that the information regarding siblings is useful to help support identity in certain circumstances. The APO submitted that the addition of the date and place of sibling/s birth would be useful.

⁷ Quoted from Legislative Assembly of New South Wales report - *Inclusion of Donor Details on the Register of Births*, page ix, [http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/\\$FILE/Inclusion%20of%20donor%20details%20on%20the%20register%20of%20births%20report%201-55.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/$FILE/Inclusion%20of%20donor%20details%20on%20the%20register%20of%20births%20report%201-55.pdf), accessed 28 March 2013

⁸ NSW Government Response to the Legislative Assembly Committee on Law and Safety: *Inclusion of Donor Details on the Register of Births* (April 2013) [http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/\\$FILE/Government%20Response%20-%20Inclusion%20of%20donor%20details%20on%20register%20of%20births.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bfa08a3ff4bb5a03ca257a9a0019c457/$FILE/Government%20Response%20-%20Inclusion%20of%20donor%20details%20on%20register%20of%20births.pdf), accessed 8 October 2013.

The date of birth of siblings is currently recorded in the Register and may be included on a long-form birth certificate. The place of birth of siblings is not currently recorded.

One submission received provided the following suggestions:

- Provide greater clarity on what is the birth registration number as compared to the document number. This may help assist other agencies, particularly when they are verifying a birth certificate on the Document Verification Service (DVS)⁹.
- The date of issue also needs to be clearly identified, again to assist with input in to DVS.
- The inclusion of a field to indicate if the person is deceased.
- The inclusion of a field indicating any name changes to be present on the front of the certificate.
- The inclusion of a field indicating younger siblings to added to the certificate, when re-issued.
- The inclusion of a field indicating the history of certificates being re-printed should be present on the certificate.
- The font size could be increased to improve readability. This will be more important as scanning of documents for storage increases and the quality of the document is important to allow staff to read details from the scan.
- That state and territory Registrars implement an information sharing practice providing the details of all deaths recorded within their jurisdictions. This would allow deceased details of all Australians except those who died overseas to be recorded on their various state and territory birth certificates.

Current NSW birth certificates clearly identify the registration number and date of issue of the certificate. The font size currently used to print text on birth certificates is a standard font size for this sized document although larger fonts can be used by special request.

If the subject has formally changed their name on their birth certificate, a notation indicating when the name change was recorded appears in the endorsements area at the bottom of the birth certificate. A notation is also placed here to indicate if the subject is deceased.

Younger siblings would need to be added to their older sibling's birth registration as they are born and then a new birth certificate produced each time to reflect these additional siblings.

Sharing death data with other jurisdictions is not in scope for this review. However, Queensland BDM compiles national deaths data on behalf of all Australian jurisdictions.

The NSW Police submitted that the following be included on the NSW birth certificate to assist with missing persons investigations and the identification of individuals:

1. Date of birth of the parents;
2. Address of the parents; and

⁹ Cth Attorney Generals Department - DVS
<http://www.ag.gov.au/rightsandprotections/identitysecurity/pages/documentverification.aspx> accessed 23 December 2013.

3. Aliases used by the parents.

The date of birth of parents is recorded in the Register, so could be included on the birth certificate. The address of each parent (at the time of registration) already appears on birth certificate.

The Regulations do not provide for the recording of aliases of the parents. Only the parents name at the time of the child's birth, along with the mother's maiden surname are recorded.

The NSW Office of the Privacy Commissioner acknowledged the importance of the birth certificate as "a high value proof of identity (POI) document" in their submission. But, the need for the collection of certain private information as well as details of third parties was questioned as follows:

- Individuals may not be comfortable with the viewing and possible collection of their personal information on their birth certificate but will likely expect that certain items of information will be sought, such as date and place of birth, especially where that information is required for POI or proof of age purposes.
- Some fields on the current birth certificate are irrelevant, are unreasonably intrusive or have no evidentiary value and should be removed. These are;
 - 1) Sex. The need to identify individuals as either male or female to establish their identity was questioned. The experience of trans and intersex individuals whose gender was incorrectly determined at birth was given as an example and it was pointed out that in some cases sexual identity changes over time and remains indeterminate¹⁰.
 - 2) Mother and father's occupation, their place of birth and their marriage details should be removed on the grounds that not only is it a possibility that a child's parent will not be married but also the child will not have both a mother and father and that they may in fact have two of each. In our view it is preferable that these fields should be removed rather than left blank because blank fields could raise questions on the part of third parties, such as why they do not have a father/mother or why their parents weren't married.
 - 3) Previous children of the relationship field should be removed on the grounds that it is unlikely to be required for POI or proof of age and that it involves the disclosure of personal information about third parties. Likewise, the inclusion of information about twins, triplets etc. should be removed for the same reason.

The sex of an individual and the place of birth of their parents are likely to continue to appear on the birth certificate as several organisations such as the Australian Passport Office, the Department of Education and Communities, and Transport for NSW, indicated the importance of retaining this information. Some information currently included on a standard certificate, such as marriage details of the parents and the particulars of previous issue may be removed. This information could still be available on a long-form certificate, if implemented.

Transport for NSW commented in their submission that a NSW birth certificate is a list one document in their list of acceptable proof of identity documents. The birth certificate allows a

¹⁰ See advice provided by the Human Rights and Equal Opportunity Commission on Gay, Lesbian, Bisexual, Trans and Intersex equality at: http://www.hreoc.gov.au/human_rights/lgbti/index.html

customer to commence their identity in Australia, which is one of the key requirements of the Gold Standard Enrolment Framework.

Transport for NSW submitted that the inclusion of a child's full name, sex and date of birth on the birth certificate are of particular importance. The child's full name, sex and date of birth are currently included on the birth certificate. As such the information currently included on the certificate is sufficient for their purpose.

Citizenship

The APO uses birth certificates for a number of purposes and submitted that the information currently appearing on the certificate should be retained.

In particular, for children born in Australia after 20 August 1986 Australian citizenship is not automatically conferred. One of the parents must be an Australian citizen or permanent resident at the time of the child's birth. Information in relation to parent's occupation, place of birth and age at birth of the child helps in decisions concerning proof of citizenship.

To improve its usefulness when determining citizenship, the APO recommended the following additional information be included on the birth certificate:

- Date/s of birth of the parent/s (rather than age)
- Citizenship of the parent/s
- Date and place of birth of siblings

It would be useful if the parent's citizenship information were captured when registering the birth of a child. Verification of citizenship information by the Department of Immigration and Border Protection would also be beneficial. Treatment of dual citizens would need to be considered, though.

The dates of birth of a child's parents and siblings are currently recorded in the Register. Consideration will be given to including this information on the long-form birth certificate, if it is introduced. The place of birth of siblings and citizenship of parents is not currently recorded in the Register.

A submission was received outlining the problems a respondent had encountered by relying on the information recorded on his birth certificate regarding his father's place of birth. Their father claimed to have been born in Poland when registering the birth. The respondent relied on this information to apply for Polish citizenship by descent after moving to Poland and establishing a business. It was subsequently discovered that the information provided by his father was incorrect.

As a result of his experience, the respondent suggested that the parent's country of origin be substantiated during the registration process to prevent this situation occurring in the future.

Parents complete the Birth Registration Statement (BRS) to register the birth of their child. Information provided on the BRS is certified correct by parents. The weight, sex, date and place of birth of a child, and the mother's name are currently verified against hospital and midwife records at the time of registration. It would be difficult or impossible to verify information from foreign jurisdictions.

Wills and Family History

Part of the role of the NSW Trustee and Guardian is to administer the estates of those who die in NSW, either with or without leaving a will. They may be required to conduct searches to locate beneficiaries and rely on the certificate evidence obtained from BDM to establish entitlement. Without the correct evidence the wrong people may benefit from an estate, or those entitled to benefit may be disadvantaged.

The NSW Trustee and Guardian submitted that the addition of the following information would greatly assist when administering estates:

1. Dates of birth of parents - to assist in identification
2. Place of birth of parents - the addition of the village/town/suburb of a large city, state and country of parents would assist identification.
3. Legal parents - a birth certificate is required as evidence to confirm the legal parents of a child for intestacy purposes.
4. Recording names of both parents - problems occur for the distribution of intestate estates if the father's name has not been recorded on the birth certificate. Unless there is evidence to support a presumption of parentage under the Status of Children Act 1996 an intestate estate will be distributed to the maternal family only if there is no father recorded on a birth certificate. The paternal family is excluded from benefiting from the estate.
5. Misspelling parents' names - check for previous children registered to identify other names or spelling of names.
6. Previous children of relationship - if the birth certificate recorded all the children born to each parent this would enable identification of all siblings entitled to an intestate estate.
7. Full name of siblings.
8. Place and date of birth of other children of the parents - if the birth certificate recorded the place of birth and date of birth this would assist identification of siblings for an intestate estate.

The date and place of birth of each parent is recorded in the Register. Consideration can be given to expanding the collection of the parents' place of birth information and including this, along with the full dates of birth of the parents on the birth certificate.

The Elder Law Group of the NSW Law Society stated that if multiple parents are included, the certificate would need to clearly indicate which parents are the legal parents therefore entitled to benefit from an intestate estate.

Current legislation allows for a maximum of two parents to be recorded on the birth certificate.

It is the responsibility of parents to register the birth of their child. Generally both parents need to sign a birth registration statement (BRS) for a father to appear on the birth certificate. When parent(s) sign the BRS they attest that the information is accurate.

The Regulations do not currently provide for the collection of places of birth of previous children of the parents.

One response commented that the current content provides all necessary “genealogical and social information” required. The respondent suggested no additions or deletions to the information currently appearing on birth certificates.

Another respondent submitted that while they understand that the purpose of a birth certificate is for personal identification, they would be disappointed if valuable genealogical data was lost from the certificates. They stated that Australian birth certificates are a great resource with the information they currently contain.

A further submission suggested that more of the information recorded on the register be printed on the birth certificate. They remarked that if the older certificates had more information on them it would make family history searches easier.

The introduction of a long-form birth certificate would allow for more registered information to appear on the birth certificate.

Other Comments

One respondent submitted that the occupation of the parents should be removed. They also suggested that inclusion of the parent’s marriage particulars should be optional, as many people do not marry.

Marriage particulars are only recorded if the parents are married. The removal of parents’ occupations and marriage particulars can be considered, especially for a short-form certificate, as it is not vital for identification of the child/person.

Another response suggested the extract birth certificate be made available again as it was usually sufficient for proof of age, did not disclose any other information that may be irrelevant and was cheaper. Full certificates should be available for those who are interested in family history or have a need to know more details such as for a security clearance. She also commented that the Queensland practice of not including parents’ marriage details unless requested is “irritating”.

The Registry continues to offer extract birth certificates. The marriage particulars may only appear on long-form birth certificate if introduced, so the issue identified in relation to Queensland’s practice will be taken into consideration.

APPENDIX

1. Current Birth Certificate - Example

NEW SOUTH WALES		REGISTRATION NUMBER
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995		00584/2009
BIRTH CERTIFICATE		
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Maiden Family Name Christian or Given Name(s) Occupation Age Place of Birth	
3 FATHER	Family Name Maiden Family Name Christian or Given Name(s) Occupation Age Place of Birth	
4 MARRIAGE OF PARENTS	Date of Marriage Place of Marriage	
5 PREVIOUS CHILDREN OF RELATIONSHIP		
6 INFORMANT(S)	Name Address	
7 REGISTERING AUTHORITY	Name Date	
8 ENDORSEMENT(S)		



REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2009

I hereby certify that this is a true copy of particulars recorded in a
Register in the State of New South Wales, in the Commonwealth of Australia

Gorey Curry
 REGISTRAR

2. Submissions Invited - Organisations

- Commonwealth Attorney-General's Department
- NSW Police
- Department of Immigration and Citizenship
- Society of Australian Genealogists
- Australian Federation of Family History Organisations
- Director General DAGJ
- DOCS
- Anglicare
- Barnardos
- NSW Department of Education and Communities
- NSW Privacy Commissioner
- Commonwealth Privacy Commissioner
- Trustee and Guardian
- Linkup
- Post Adoption Resource Centre
- Centacare
- COAR
- Gay and Lesbian Rights Lobby
- The Fertility Society of Australia
- Legislation Policy and Criminal Law Review Division
- Transport for NSW - Roads and Maritime Services
- ABS
- Child Support Agency
- Department of Human Services - Medicare
- Centrelink
- DFAT
- NSW Bar Association
- The Law Society of NSW
- NSW Ombudsman
- Aboriginal Affairs NSW
- BDM VIC
- BDM QLD
- BDM SA
- BDM WA
- BDM TAS
- BDM NT
- BDM ACT
- BDM NZ
- BDM Norfolk Island
- BDM Fiji

3. Respondents

Submissions were received from the following organisations and individuals:

- **NSW Department of Family and Community Services Community Services**
- **New South Wales Committee on Adoption and Permanent Care Inc**
- **Mr Brian Fitzgerald**
A private citizen.
- **NSW Department of Education and Communities**
- **New South Wales Ombudsman**
- **Australian Bureau of Statistics**
- **Ms Louise Clayton**
A private citizen.
- **The Fertility Society of Australia**
- **Gay and Lesbian Rights Lobby**
- **The Law Society of New South Wales**
- **Mr Paul Clarke**
A private citizen.
- **AA**
The sperm donor referred to in the case in AA v Registrar of Births Deaths & Marriages and BB heard by Judge Stephen Walmsley in the District Court.
- **Department of Foreign Affairs and Trade - Australian Passport Office**
- **Department of Human Services**
The Business Integrity Division of the Department of Human Services
- **NSW Police Force**
- **NSW Office of the Privacy Commissioner**
- **Transport for NSW**
- **Department of Foreign Affairs and Trade - Australian Passport Office**
- **Mr Szymon Gryg**
A private citizen
- **NSW Trustee and Guardian**

- **Society of Australian Genealogists**

- **Ms Deb Humbley**

A private citizen

- **Ms Bernice Rushworth**

A private citizen

- **An anonymous citizen**

- **Ms Lyn Nunn**

A private citizen

4. Possible Long Birth Certificate - Example

NEW SOUTH WALES		REGISTRATION NUMBER
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995		00584/2013
BIRTH CERTIFICATE		
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Family Name at Birth Christian or Given Name(s) Occupation Date of Birth Place of Birth Indigenous Status	
3 FATHER/PARENT 2	Family Name Family Name at Birth Christian or Given Name(s) Occupation Date of Birth Place of Birth Indigenous Status	
4 MARRIAGE OF PARENTS	Date of Marriage Place of Marriage	
5 PREVIOUS CHILDREN OF THIS RELATIONSHIP		
6 PREVIOUS CHILDREN OF MOTHER		
7 PREVIOUS CHILDREN OF FATHER (or PARENT 2)		
8 INFORMANT(S)	Name Address	
9 REGISTERING AUTHORITY	Name Date	
10 ENDORSEMENT(S)		



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REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2013

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SAMPLE
Registrar

5. Example of Possible Short Birth Certificate - Example

NEW SOUTH WALES		REGISTRATION NUMBER
BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995		00584/2013
EXTRACT BIRTH CERTIFICATE		
1 CHILD	Family Name Christian or Given Name(s) Sex Date of Birth Place of Birth	
2 MOTHER	Family Name Family Name at Birth Christian or Given Name(s)	
3 FATHER/PARENT 2	Family Name Family Name at Birth Christian or Given Name(s)	
4 REGISTERING AUTHORITY	Name Date	
5 ENDORSEMENT(S)		



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REGISTRY OF BIRTHS
DEATHS AND MARRIAGES

SYDNEY

6 Feb 2013

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Registrar

6. Births, Deaths and Marriages Registration Regulation 2011

As at 1 July 2013

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Births, Deaths and Marriages Registration Regulation 2011*.

2 Commencement

This Regulation commences on 1 September 2011 and is required to be published on the NSW legislation website.

This Regulation replaces the *Births, Deaths and Marriages Registration Regulation 2006* which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation: "**the Act**" means the *Births, Deaths and Marriages Registration Act 1995*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 – Information required to be given to Registrar or noted in Register

4 Notification of birth

For the purposes of section 12 of the Act, the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) whether the child was born alive or stillborn,
- (c) the weight of the child at birth and, if the child was stillborn, the period of gestation of the child,
- (d) whether or not the birth was a multiple birth,
- (e) the full name (including, if applicable, the original surname), date of birth and usual place of residence (at the time of delivery) of the birth mother of the child,
- (f) the full name and occupation of the person giving the notice.

5 Registration of birth

(1) For the purposes of sections 14 and 17 of the Act, the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) the weight of the child at birth,
- (c) whether or not the birth was a multiple birth,
- (d) the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence (at the time of delivery) of each parent of the child,
- (e) the date and place of marriage of the parents of the child (if applicable),
- (f) the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child,
- (g) whether or not either of the parents of the child is of Aboriginal or Torres Strait Islander origin,
- (h) if either parent of the child was born outside Australia, the period of residence in Australia of that parent.

A birth registration statement given to the Registrar under section 14 of the Act

- must also state the name of the child (see section 21 of the Act).
- (2) For avoidance of doubt, the Registrar is authorised to include in the Register the registrable information about the identity of the child's parents that is required to be provided under this clause.
- (3) If the particulars supplied to the Registrar under section 14 of the Act specify that:
- (a) a parent who is the father of the child wishes to be identified in the Register as the father, or
 - (b) a parent who is the birth mother of the child wishes to be identified in the Register as the mother,
- or both, the particulars entered in the Register under section 17 of the Act must identify the parent as the father or mother, as the case requires. This subclause does not limit the particulars which may be included in the Register.

6 Registration of adoption

For the purposes of section 24 of the Act, the following particulars are required:

- (a) the full name, sex and date and place of birth of the child to whom the record of adoption or discharge relates,
- (b) the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence of the child's adoptive parent or parents,
- (c) the date and place of marriage of the adoptive parents of the child (if applicable),
- (d) the full name and date of birth of any other children (whether adopted children or not and including any deceased children) of either of the adoptive parents of the child.

7 Registration of deceased person's former intention to adopt

For the purposes of section 24A of the Act, the following information is required:

- (a) the full name and last residential address of the deceased person,
- (b) the date and place of death of the deceased person.

8 Registration of change of name

- (1) For the purposes of section 31 of the Act, the following particulars are required:
- (a) the sex and date and place of birth of the person whose change of name is being registered,
 - (b) the full name of the person immediately before the change of name,
 - (c) the full name first given to the person after birth and any other name shown on the person's birth registration,
 - (d) any other former names of the person,
 - (e) the new full name of the person,
 - (f) the full names of the parents of the person (as at the date of the person's birth or registration of the person's birth).
- (2) In this clause, "**former name**" of a person includes:
- (a) a name acquired by the person informally by repute or usage, or
 - (b) any other name used by the person.

9 Application to alter Register to record change of sex

For the purposes of section 32C (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32B of the Act:

- (a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32C (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that paragraph,

(b) documentary proof, to the Registrar's satisfaction, of the identity of the person the subject of the application.

10 Application to register change of sex

For the purposes of section 32DB (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32DA of the Act:

- (a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32DB (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that paragraph, and
- (b) documentary proof, to the Registrar's satisfaction:
 - (i) that the person is an Australian citizen or permanent resident of Australia, and
 - (ii) that the person lives, and has lived for at least one year, in New South Wales.

11 Registration of relationship

The following particulars of the registration of a relationship under the *Relationships Register Act 2010* are required to be registered in the Register:

- (a) the sex, full name, occupation and usual place of residence of each party to the relationship,
- (b) the date and place of birth of each party to the relationship,
- (c) the full names (including, if applicable, the original surname) of the parents of each party to the relationship.

12 Information concerning human remains

For the purposes of section 41 (1) (d) of the Act, the following information is required from a funeral director or other person who arranges for the disposal of human remains:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (i) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (j) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (k) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (l) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

13 Information concerning human remains removed from the State

For the purposes of section 41 (2) (b) of the Act, the following information is required from a funeral director or other person who arranges for the removal of human remains (other than cremated remains) from the State:

- (a) the full name and last residential address of the deceased,
- (b) the date and place of death of the deceased,
- (c) whether or not the death was reported to a coroner,
- (d) the sex, date of birth (or age at death) and place of birth of the deceased,
- (e) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (f) the date of disposal of the remains of the deceased,
- (g) the full name and business address of the funeral director or other person who arranged for removal of the remains,
- (h) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (i) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (j) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (k) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (l) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (m) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (n) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

14 Information concerning human remains not disposed of within 30 days after death

For the purposes of section 41 (3) (c) of the Act, the following information is required from a funeral director or other person who has custody of human remains that have not been disposed of within 30 days after the date of death:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the full name and business address of the funeral director or other person who has custody of the remains of the deceased,
- (e) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (f) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (g) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (h) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (i) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (j) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (k) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

15 Registration of death

For the purposes of section 42 of the Act, the following particulars are required:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (i) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such particulars in relation to each marriage of the deceased if the deceased had married more than once),
- (j) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (k) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (l) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

Part 3 – Miscellaneous

16 Persons who may apply for old birth certificate

(1) For the purposes of section 32F of the Act, the following persons are prescribed as persons who may apply to the Registrar for a birth certificate that shows the sex of a transgender person before the record of the transgender person's sex was altered under Part 5A of the Act:

- (a) the executor or administrator of the transgender person's estate,
- (b) a parent of the transgender person,
- (c) a spouse or de facto partner (or former spouse or de facto partner) of the transgender person,
- (d) an officer or person acting on behalf of any of the following law enforcement agencies:
 - (i) the NSW Police Force, or the police force of another State or a Territory,
 - (ii) the Australian Federal Police,
 - (iii) the New South Wales Crime Commission,
 - (iv) the Australian Crime Commission,
 - (v) the Office of the Director of Public Prosecutions of this State, of another State or a Territory, or of the Commonwealth,
 - (vi) the Independent Commission Against Corruption.

(2) In this clause, **"transgender person"** means a person:

- (a) who has undergone a sex affirmation procedure, and
- (b) the record of whose sex has been altered under Part 5A of the Act.

16A Exemptions from certain provisions of Division 3 of Part 5 of the Act

(1) For the purposes of section 31B of the Act, persons who are inmates, parolees, periodic detainees, forensic patients or correctional patients, or are subject to a

supervision order, solely because of one or more of the following reasons are prescribed as not being a class of restricted person:

- (a) because of the commission or alleged commission of an offence under a law of the Commonwealth,
 - (b) because the person is the subject of a warrant under section 170 (1) (a) of the *Defence Force Discipline Act 1982* of the Commonwealth by which an authorised officer under that Act has committed the person to a correctional centre pursuant to a punishment of imprisonment imposed under that Act,
 - (c) because the person is a detainee within the meaning of the *Migration Act 1958* of the Commonwealth and who is held in a correctional centre as referred to in paragraph (b) (ii) of the definition of "**immigration detention**" in section 5 of that Act,
 - (d) because the person is in the keeping of a correctional officer under section 250 of the *Crimes (Administration of Sentences) Act 1999*.
- (2) A person is exempt from section 31F of the Act if the person is a former serious offender only because of the commission or alleged commission of an offence under a law of the Commonwealth.
- (3) In this clause, terms defined in Part 5 of the Act have the same meanings as they have in that Part.

17 Recognition of change of sex--interstate laws

- (1) For the purposes of section 32I of the Act, the following laws are prescribed:
- (a) *Births, Deaths and Marriages Registration Act 1997* of the Australian Capital Territory,
 - (b) *Births, Deaths and Marriages Registration Act* of the Northern Territory,
 - (c) *Births, Deaths and Marriages Registration Act 2003* of Queensland,
 - (d) *Sexual Reassignment Act 1988* of South Australia,
 - (e) *Births, Deaths and Marriages Registration Act 1999* of Tasmania,
 - (f) *Gender Reassignment Act 2000* of Western Australia,
 - (g) *Births, Deaths and Marriages Registration Act 1996* of Victoria.
- (2) For the purposes of section 32J of the Act the *Gender Reassignment Act 2000* of Western Australia is prescribed.

18 Fees

For the purposes of section 54 of the Act, the fee for a service provided by the Registrar (other than a service that is fee exempt under clause 19) is the amount set out opposite the service concerned in Schedule 1.

19 Temporary fee exemption for marriage and relationship certificates

- (1) The following services are fee exempt for the period commencing on 1 September 2011 and ending on 13 February 2012 (the "**fee exempt period**"):
- (a) the issue of a marriage certificate in respect of a marriage that occurs during the relevant period,
 - (b) the issue of a relationship certificate in respect of a relationship that is registered under the *Relationships Register Act 2010* during the relevant period.
- (2) Accordingly, no fee is payable for the issue of such a marriage certificate or relationship certificate during the fee exempt period.
- (3) This clause does not apply to any other service provided in connection with the issue of a marriage certificate or relationship certificate.
- (4) In this clause: "**marriage certificate**" means a certificate certifying particulars contained in an entry in the Register about a marriage registered under the Act. "**relationship certificate**" means a certificate certifying particulars contained in an entry in the Register about a relationship registered under the *Relationships Register Act 2010*. "**relevant period**" means the period commencing on 14 February

2011 and ending on 13 February 2012.

20 Savings

Any act, matter or thing that, immediately before the repeal of the *Births, Deaths and Marriages Registration Regulation 2006*, had effect under that Regulation continues to have effect under this Regulation.